

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





# 76-1432

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

B

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DOCKET NO. 76-1432

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UNITED STATES OF AMERICA  
PLAINTIFF-APPELLEE

V.

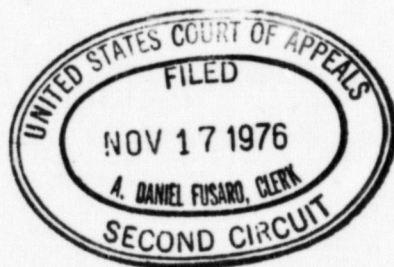
DAVID R. LEWIS, ET AL  
DEFENDANT-APPELLANT

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APPENDIX TO BRIEF OF DEFENDANT-APPELLANT DAVID WILLIAMS

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HOWARD C. ECKENRODE  
COUNSEL FOR DEFENDANT-APPELLANT  
147 Broad Street  
Milford, Ct. 06460



UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA

:

V.

:

CRIMINAL NO. N-76-5

DAVID R. LEWIS, RICHARD WASHINGTON  
and DAVID WILLIAMS +

:

I N D I C T M E N T

THE GRAND JURY CHARGES:

COUNT ONE

On or about September 20, 1973, at Stamford in the District of Connecticut, DAVID R. LEWIS, RICHARD WASHINGTON and DAVID WILLIAMS, the defendants herein, did by force and violence and by intimidation take from the person and presence of another, money belonging to and in the care, custody, control, management and possession of the West Side Office of the Connecticut National Bank, 414 West Main Street, Stamford, Connecticut, the deposits of which were then insured by the Federal Deposit Insurance Corporation, in violation of Title 18, United States Code, Section 2113(a) and Title 18, United States Code, Section 2(a).

COUNT TWO

On or about September 20, 1973, at Stamford in the District of Connecticut, DAVID R. LEWIS, RICHARD WASHINGTON and DAVID WILLIAMS, the defendants herein, did take and carry away, with intent to steal and purloin, money in excess of \$100 belonging to and in the care, custody, control, management and possession of the West Side Office of the Connecticut National Bank, 414 West Main Street, Stamford, Connecticut, the deposits of which were then insured by the Federal Deposit Insurance Corporation, in violation of Title 18, United States Code, Section 2113(b) and Title 18, United States Code, Section 2(a).



COUNT THREE

On or about September 20, 1973, at Stamford in the District of Connecticut, DAVID R. LEWIS, RICHARD WASHINGTON and DAVID WILLIAMS, the defendants herein, wilfully and unlawfully, did take by force, violence and intimidation, from the persons and presence of Donna Buchetto, Stella Vattaglia, Margaret Perry, Vera Carrieros, Lu Ann Sciglinpalla, John Danelon and Nicholas Galiatsos, money in excess of \$100 belonging to and in the care, custody, control, management and possession of the West Side Office of the Connecticut National Bank at 414 West Main Street, Stamford, Connecticut, the deposits of which were then insured by the Federal Deposit Insurance Corporation, and in committing the aforesaid acts, DAVID R. LEWIS, RICHARD WASHINGTON and DAVID WILLIAMS, did assault Donna Buchetto, Stella Vattaglia, Margaret Perry, Vera Carrieros, Lu Ann Sciglinpalia, John Danelon and Nicholas Galiatsos and put their lives in jeopardy by the use of dangerous weapons, to wit, a pistol and a shotgun, in violation of Title 18, United States Code, Section 2113(d) and Title 18, United States Code, Section 2(a).

COUNT FOUR

On or about September 20, 1973, at Stamford in the District of Connecticut, DAVID R. LEWIS, RICHARD WASHINGTON, and DAVID WILLIAMS, the defendants herein, did wilfully and unlawfully combine, conspire, confederate and agree together with Joseph Daniels, Arthur Hendrix, and Aaron Stewart, named herein as co-conspirators but not as co-defendants, to commit an offense against the United States of America, that is, to take and carry away, with intent to steal, money in excess of \$100 belonging to and in the care, custody, control, management and possession of the West Side Office of the Connecticut National Bank, 414 West Main Street, Stamford, Connecticut, the deposits of which were then insured by the Federal Deposit Insurance Corporation, in violation of Title 18, United States Code, Section 2113(b), all in violation of Title 18, United States Code, Section 371.

OVERT ACTS

The Grand Jury charges that in furtherance of the aforesaid conspiracy and to accomplish the objects thereof, the defendants at the times and places hereinafter set forth did commit the following overt acts:

1. On or about September 19, 1973, the defendants met with each other and with Joseph Daniels, Arthur Hendrix, and Aaron Stewart.

2. On or about September 20, 1973, the defendants drove to the West Side Office of the Connecticut National Bank at 414 West Main Street, Stamford, Connecticut.

A TRUE BILL

/s/  
FOREMAN

/s/  
PETER C. DORSEY  
UNITED STATES ATTORNEY

/s/  
WILLIAM F. DOW, III  
ASSISTANT UNITED STATES ATTORNEY



OFFENSES  
18:2113(a) 2(a) took money from bank by force 1  
18:2113(b) 2(a) took money w/intent to steal from bank 1  
18:2113(d) 2(a) put live in jeopardy by use of dangerous weapon 1  
18:371 conspiracy 1  
U.S. Attorney or Asst. Peter C. Dorsey  
William F. Dow, III  
Defense: CJA, Ret., Waived, Self, None, Other, ☒ D, ☒ CD  
/Gregory B. Craig, 770 Chapel St.  
New Haven, Conn. Leslie Velasquez  
655 Clinton Ave.

ARREST 2/9/76 or U.S. Custody Began on Above Charges  
INDICTMENT ☒ Information ☐ High Risk Defn. & Date Design'd 1/5/76  
ARRAIGNMENT 2/9/76 1st Plea "C" Final Plea  
TRIAL Trial Set For 5/24/76 Voir Dire ☒ Trial Began 6/2/76 Trial Ended 8/6/76  
SENTENCE 9/17/76  
Disposition 8/6/76  
☒ Convicted ☐ On All Charge ☒ On Lesser Offense(s)  
☐ Acquitted ☐ Dismissed: ☐ WOP, ☐ WP  
☐ Notted/Discontinued\*

	Issued	DATE	INITIAL/No.	INITIAL APPEARANCE	INITIAL/No.	OUTCOME
Search Warrant	Return			PRELIMINARY EXAMINATION OR REMOVAL HEARING		<input type="checkbox"/> Dismissed <input type="checkbox"/> Exonerated
Summons	Issued			<input type="checkbox"/> Waived <input type="checkbox"/> Intervening <input type="checkbox"/> Not Waived <input type="checkbox"/> Indictment		<input type="checkbox"/> Held for District GJ <input type="checkbox"/> To Transferee District
	Served					
Arrest Warrant						<input type="checkbox"/> Held to Answer to U. S. District Court
COMPLAINT				Tape No.	INITIAL/No.	AT: Magistrate's Initials
OFFENSE (In Complaint)						

Show last names and suffix numbers of other defendants on same indictment/information				V. Excludable Delay			
1) Hendrix, 3) Stewart, 4) Washington, 5) Williams				(a)	(b)	(c)	(d)
DATE	PROCEEDINGS						
5/76	Indictment return and filed at New Haven. Bench warrant may issue and lodge as detainer. Zampano, J. m-1/6/76						
1/6/76	Bench Warrant issued and handed to U.S. Marshal for service.						
1/12/76	Application for Writ of Habeas Corpus Ad Prosequendum filed by govt. and allowed. Newman, J. m-1/12/76. two cert. copies handed to U.S. Marshal for service.						
2/9/76	PLEA: Appointment of counsel, the Federal Public Def., until a review of the financial affidavit. Plea of <u>not guilty</u> entered to Cts 1 thru 4. Newman, J. m-2/9/76.						
2/10/76	CJA Form D appointing the Federal Public Defender to represent the deft., filed. Newman, J. m-2/10/76 copies mailed to Attys Dow and Craig.						
2/23/76	Deft. Lewis' Motion for a Bill of Particulars, Motion for Discovery and Inspection, Motion for Production of Evidence Favoable to the Accused, Motion for Leave to Join, Adopt, Or Consolidate Motions of Co-Defendants, Motion for Production At Trial, Motion for Production of Grand Jury Testimony, Motion to Suppress Illegally Obtained and Eyewitness Identification, Motion to Suppress Evidence Derived from over						

DATE 1976.	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
2/23/76	Unlawful Electronic Surveillance, Motion for Disclosure of Electronic Surveillance, Motion for Disclosure Regarding Opening of First Class Mail, Motion to Extend the Deadline for Filing Motion, or in the Alternative, to Grant Leave to File Supplementary Motions, Motion for an Order Increasing the Number of Peremptory Challenges Available to Defense Counsel, filed by deft.				
2/23/76	Deft. Motion to Dismiss and Motion to Impound and Preserve any and All notes, Reports and Memoranda of Federal Bureau of Investigation Against, Conn. State Police Officers and Bridgeport, Police Officers Relevant to the Instant Indictment, filed by deft.				
3/4/76	Court Reporter's Tapes of Proceedings held on Feb. 9, 1976 filed. Gale, R.				
3/26/76	Notice of Readiness, filed by govt.				
5/4/76	CJA Form 20 substituting Leslie Byelas, for Gregory Craig, filed. Newman, J. copies distributed.				
5/10/76	Appearance of Leslie Byelas, filed for the deft.				
5/10	Motion to Withdraw, filed by Atty. Craig.	3	5/10/76G		
5/14	Motion to Withdraw endorsed: Motion granted. Newman, J. m-5/14/76. copies mailed to Attys Dow and Bowman.	3	5/14/76G		4
6/15/76	Motion for Relief, filed by deft. pro se	3	6/15/76	G	
6/21/76	Marshal's return showing service, filed: Writ of H. C. ad Prosequendum.				
6/22/76	Motion for Relief endorsed: Motion denied as Moot, in view of transfer to F.C.I. Danbury. Newman, J. m-6/22/76. copies mailed to Deft and counsel of record.	3	6/22/76	G	7
7/2/76	Court Reporter's Notes of Proceedings (Plea) held on Feb. 9, 1976, filed. Gale, R.				
7/28	Application for Writ of Habeas Corpus Ad Testificandum, filed and entered. Zampano, J. m-7/29/76. Two attest copies handed U. S. Marshal in New Haven.				
		(a)	(b)	(c)	(d)

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BEST COPY AVAILABLE

Interval (per Section II) Start Date End Date Ltr. Code



U.S. CODE SECTION OFFENSES COUNTS  
18:2113(a) 2(a) took money from bank by violence 1  
18:2113(b) 2(a) took money w/intent to steal from bank 1  
18:2113(d) 2(a) put lives in jeopardy by use of dangerous  
weapon 1  
18:371 conspiracy 1  
U.S. Attorney or Asst. Defense: ☒ CJA, ☐ Ret., ☐ Waived, ☐ L. Suit, ☐ L. None, ☐ Other, ☐ L. PD, ☐ L. CD  
Peter C. Dorsey M. Mitchell Morse  
William F. Dow, III 207 Orange Street, New Haven, Ct.  
MAGR. CASE NO. BAIL • RELEASE  
☐ Personal Recog.  
☐ Unsecured Bond  
Denied ☐ Conditional Release  
AMT Set (000) ☐ 10% Deposit  
\$ ☐ Surety Bond  
date ☐ Collateral  
☐ Bail Not Made ☐ 3rd Party  
☐ Bail Status Changed ☐ Custody  
(See Docket) PSA

ARREST INDICTMENT ARRAIGNMENT TRIAL SENTENCE  
2/9/76 or 1/15/76 2/9/76 5/24/76 6/2/76  
U.S. Custody Began on Above Charges  
High Risk Defn. & Date Design'd  
Information ☐  
Waived ☐  
Superseding ☐  
Indict/Info ☐  
Prosecution Deferred  
Trial Set For  
Voir Dire ☒  
Trial Began ☒  
Trial Ended  
Disposition: ☐ Convicted ☐ On All Charge  
☐ Acquitted ☐ On Lesser Offense(s)  
☒ Dismissed: ☐ WOP; ☐ WP  
☐ Nolle/Discontinued\*

Search Warrant	Issued	DATE	INITIAL/No.	INITIAL APPEARANCE	INITIAL/No.	OUTCOME
Summons	Issued			PRELIMINARY EXAMINATION OR REMOVAL HEARING Date Scheduled Date Held <input type="checkbox"/> Waived <input type="checkbox"/> Not Waived <input type="checkbox"/> Intervening Indictment		<input type="checkbox"/> Dismissed <input type="checkbox"/> Held for District GJ <input type="checkbox"/> Held to Answer to U. S. District Court AT: Magistrate's Initials
	Served					
Arrest Warrant						
COMPLAINT				Tape No.	INITIAL/No.	
OFFENSE (In Complaint)						

* Show last names and suffix numbers of other defendants on same indictment/information				V. Excludable Delay			
DATE	PROCEEDINGS	1-HENDRIX, 2-LEWIS, 4-WASHINGTON, 5-WILLIAMS		(a)	(b)	(c)	(d)
1/5/76	Indictment returned and filed at New Haven. Bench warrant may issue and lodge as a detainer. Zampano, J. m-1/6/76						
1/6/76	Bench Warrant issued and handed to U.S. Marshal for service.						
1/12/76	Application for Writ of Habeas Corpus Ad Prosequendum, filed by govt. and allowed, Newman, J. m-1/12/76. two cert. copies handed to U.S. Marshal for service.						
2/9/76	PLEA: Financial Affidavit, filed by deft. Appointment of M. Mitchell Morse as counsel for deft. Plea of not guilty entered to Counts 1 thru 4. CJA Form 20 appointing M. Mitchell Morse, filed. Deft. request 2 weeks for filing motions-granted. Newman, J. m-2/9/76.						
2/24/76	1) Deft's Motion to Dismiss, 2) Deft's Motion for Production of Grand Jury Testimony, 4) Deft's Motion for Production at Trial 3) Deft's Motion for Discovery and Inspection, Deft's Motion for Production of Evidence Favorable to the Accused, 6) Motion to Suppress Evidence Derived from Unlawful Electronic Surveillance, Deft's Motion to Suppress Photographic and Eyewitness Identification, 8) Motion for Disclosure of Electronic Surveillance, Motion for Disclosure Regarding Opening of First Class Mail, 10) Deft's Motion to Impound						

DATE 1976	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
2/24/76	and Preserve any and all Notes, Reports and Memoranda of Federal Bureau of Investigation Agents, State Police Officers and Bridgeport, Police Officers Relevant to the Instant Indictment, 11) Motion for An Order Increasing the number of Peremptory Challenges Available to the defense Counsel, 12) Motion for Leave to Join, Adopt, Or Consolidate Motions of Co-Defts. Motion to Extend the Deadline for Filing Motions, or In the Alternative, to Grant Leave to File Supplementary Motions, and Motion for a Bill of Particulars, filed by deft.				
3/4/76	Court Reporter's Sound Recording of Proceedings (Plea) held on Feb. 9, 1976, filed. Gale, R.				
3/26/76	Notice of Readiness, filed by govt.				
4/29/76	Response to Motion for Discovery and Inspection of Deft's Lewis and Stewart, Response to Deft Lewis' Motion for Bill of Particulars, Response to Deft. Stewart's Motion for Bill of Particulars, Response to Motion for Leave to Join, Adopt, or Consolidate Motions of Codefendants Lewis and Stewart, Response to Deft. Stewart's Motion for Production at Trial, Response to Motion for Production of Grand Jury Testimony by Defts Stewart and Lewis, Response to Motion for Production of Evidence Favorable to the Accused by defts Stewart and Lewis, and Response to Motion to Impound and Preserve any and all notes, Reports and Memoranda of Federal Bureau of Investigation Agent, State Police Officer, and Bridgeport Police Officers Relevant to the Indictment, filed by Govt.				
5/3/76	Response to Motions to Extend Deadline for Filing Motions, or, in the Alternative, to Grant Leave to File Supplementary Motion by Deft. Stewart and Lewis, Response to Motion for An Order Increasing the number of peremptory challenges available to Defense Counsel by Defts. Stewart and Lewis, filed by Govt.				
5/6/76	Supplemental Response to Motion for An Order Increasing the Number of Pre-emptory challenges available to defense counsel by Defts. Stewart and Lewis, filed by govt.	3	5/6/76	G	
5/12/76	Application for Notice of Alibi, filed by govt.				
5/14	Marshal's return showing service, filed: Subpoena to Produce.				
5/17/76	Ruling on Pre-Trial Motions of Deft.'s Stewart and Lewis, filed and entered. Newman, J. m-5/17/76. copies mailed to all counsel of record.	3	5/17/76	G	1
5/17	Following endorsement on deft's Motion to Withdraw Appearance: Since this case is on Judge Murphy's Trial Calendar for May 20, 1976, the Motion is denied, without prejudice to renewal before (continued)			07	
		(a)	(b)	(c)	(d)
	Interval (See Section II)		Start Date End Date	Ltr. To Code	Tor Da



alongy R JUDGE/UD Assigned Trial • U. S. vs. WASHINGTON, RICHARD  
ifense 0 MAGISTRATE  
venor 0 205 03 Disp./Sentence  
District Office  
defendant No. 5  
of 5 Defendants  
76 N-76-5 4  
JON

RGES U.S. COURT SECTION OFFENSES COUNTS  
18:2113(a) 2(a) took money from bank by force 1  
18:2113(b) 2(a) took money from bank w/intent to steal 1  
18:2113(d) 2(a) put lives in jeopardy by use of dangerous weapon 1  
18:317 conspiracy 1  
MAGR. CASE NO.  
BAIL • RELEASE  
Denial ☐ Personal Recog.  
Unsecured Bond  
AMT ☐ Conditional Release  
Set (000) ☒ 10% Depos  
\$ 25,000 ☐ Surety Bond  
1716/76 ☐ Collateral  
Bail Not ☐ 3rd Party  
Made ☐ Custody  
Bail Status ☐ PSA  
Changed ☐ (Set Docket)  
U.S. Attorney or Asst: Defense: CJA, Ret, Waived, Self, None, Other, PD, L, CD  
Peter C. Dorsey ~~XXXXXXXXXXXX~~, 125-10 Queens Blvd.  
William F. Dow, III Kenneth Salaway Kew Gardens, N.Y. 11415  
Dennis E. Curtis, Yale Law School, 127 Wall St, New Haven, Conn.

ARREST INDICTMENT X ARRAIGNMENT New Haven, Conn. TRIAL SENTENCE  
1/13/76 or U.S. Custody Began on Above Charges  
High Risk Defn. & Date Design'd  
1/5/76 Information ☐  
Waived ☐  
Superseding ☐  
Indict/Info ☐  
Prosecution Deferred  
1/16/76 Trial Set For  
1st Plea  
Final Plea  
Voor Dire 5/24/76  
Trial Began 6/2/76  
Trial Ended 8/6/76  
Disposition 8/6/76  
9/17/76  
X Convicted  
Acquitted  
Dismissed  
Not Guilty  
Nolo  
Guilty  
Nolo  
Guilty  
On All Charge  
On Lesser Offense(s)  
WOP; WP  
Not Held/Discontinued\*

Search Warrant	Issued	DATE	INITIAL/No.	INITIAL APPEARANCE	INITIAL/No.	OUTCOME
	Return			PRELIMINARY EXAMINATION OR REMOVAL HEARING		BOND { <input type="checkbox"/> Exonerated <input type="checkbox"/> To Transferee District <input type="checkbox"/> Held for District GJ <input type="checkbox"/> Held to Answer to U. S. District Court AT: Magistrate's Initials
Summons	Issued			Date Scheduled Date Held		
	Served			<input type="checkbox"/> Waived <input type="checkbox"/> Not Waived	<input type="checkbox"/> Intervening Indictment	
Arrest Warrant				Tape No.	INITIAL/No.	
COMPLAINT						
OFFENSE (In Complaint)						

Show last names and suffix numbers of other defendants on same indictment/information  
1-HENDRIX, 2-LEWIS, 3-STEWART and 5-WILLIAMS  
DATE PROCEEDINGS  
1/5/76 Indidctment returned and filed at New Haven. Bench Warrant may issue. Zampano, J. m-1/6/76.  
1/6/76 Bench Warrant issued and handed to U.S. Marshal for service.  
1/16 PLEA: Plea of not guilty entered to Counts 1, 2, 3 and 4. By agreement of U. S. Atty. the bond is \$25,000, with 10% (\$2,500.00) surety. Deft. may travel to New York. Newman, J. m-1/16/76.  
1/16 Appearance of Dennis Curtis and Barry J. Teller entered for defendant.  
1/16 Appearance bond in the amt. of \$25,000.00 (with 10% surety) executed and filed. Approved Newman, J. m-1/19/76. Limits extended to New York.  
1/23 Notice of Readiness, filed by govt.  
2/9 U.S. Magistrate's Letter re: disposition by removal. and Warrant of arrest with marshal's service thereon.  
2/13 Marshal's return showing service, filed: Warrant of Arrest.  
3/4/76 Court Reporter's Sound Recording of Proceedings (Plea) held on Jan. 16, 1976, filed. Gale, R.  
V. Excludable Delay  
(a) (b) (c) (d)

DATE	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
3/18/76	Notice of Motion, Motion to Dismiss, and Affidavit Richard Washington and Kenneth W. Salaway, filed by deft.	3	3/18/76	G	
3/26/76	Notice of Readiness, filed by govt.				
4/21	Ruling on Defendant's Motion to Dismiss, filed and entered. Motion to dismiss is denied, w/o prejudice to renewal at trial. Newman, J. m-4/22/76. copies mailed to counsel	3	4/21/76	G	
5/19	Notice of Motion, Motion to Withdraw Appearance and Affidavit of Kenneth Salway, filed.				
5/20	Attorney's Affirmation filed by Atty. Salaway.				
6/18	Notice of Motion to Withdraw Appearance and Affidavit of Kenneth Salaway and Richard Washington, filed by deft.				
6/22/76	Hearing held. Deft. presented Before Court to learn the circumstance for his non appearance. Deft. is advised to appear with his Atty on June 28, 1976 to hear Motion to Withdraw. Deft. is released under conditions of previous bond and Bench Warrant is quashed by Court Order. Newman, J. m-6/22/76.				
6/28/76	Hearing held on Motion to Withdraw. Motion to Withdraw is denied. Deft. is to submit financial affidavit. After Court reviews affidavit it will appt. Atty. Salaway. If deft is able he will make payment towards atty. fees. Counsel advises Court it will submit Motion to Sever within one week. Deft. orally renews Motion to Dismiss-denied. Court instructs the deft of his obligation to appear and assist his atty in preparation of case. Financial Affidavit, filed by deft. Set for jury selection on Aug. 2, 1976 at Hartford. Newman, J. m-6/28/76.				
" "	Notice of Motion to Withdraw Appearance endorsed Motion denied for reasons stated in open Court. Newman, J. m-6/28/76.				
6/25	Court Reporter's Notes of Proceedings (Motion) held on June 22, 1976. filed. Russell, R.				
7/9	Notice of Motion, Motion for Severance and Affidavit of Attorney Salaway, filed by deft.	3	7/9/76	E	
7/1	CJA Form 20 appointing Kenneth Salaway to represent deft., filed. Newman, J. Copies distributed.				
8/6	Court Reporter's Notes of Proceedings (Motion) held on June 28, 1976, filed. Russell, R.				
8/11	Motion to Sever endorsed: Motion denied w/o prejudice for reasons stated in open Court. Newman, J. m-8/11/76 copies mailed to counsel.				

Interval

Start Date

(c) (d)  
Ltr. To  
Code

09



Story ☒ JUDGE/UD Assigned Trial  
MAGISTRATE

• U.S. vs. WILLIAMS, David

5 1 76 N-76-5 5

Offense ☐ Senior ☐ 205 03 District Office Disp./Sentence

defendant

No. of Defdnts 5

AGES

U.S. CODE SECTION

OFFENSES

COUNTS

18:2113(a) 2(a) took money from bank by force  
18:2113(b) 2(a) took money w/intent to steal from bank  
18:2113(d) 2(a) put lives in jeopardy by use of dangerous weapon  
18:371 conspiracy

1  
1  
1  
1

U.S. Attorney or Asst  
Peter C. Dorsey  
William F. Dow

Defense ☒ CJA, ☐ Ret., ☐ Waived, ☐ Self, ☐ None, ☐ Other, ☐ PD, ☐ CD  
Howard C. Eckenrode, Esq.  
147 Broad Street, Milford, Ct.

MAGR. CASE NO.

BAIL • RELEASE  
☐ Personal Recog.  
☐ Unsecured Bond  
AMT → Conditional Release  
Set (000) ☐ 10% Deposit  
\$ ☐ Surety Bond  
date ☐ Collateral  
☐ Bail Not Made  
☐ Bail Status  
Changed (See Docket) ☐ 3rd Party Custody  
☐ PSA

ARREST

INDICTMENT ☒

ARRAIGNMENT

TRIAL

SENTENCE

U.S. Custody Began on Above Charges  
High Risk Defn. & Date Design'd  
1/5/76  
Waived ☐  
Superseding Indict/Info ☐  
2/9/76  
1st Plea II  
Final Plea  
Trial Set For  
Voor Dire ☒  
5/24/76  
Trial Began ☒ J  
6/2/76 ☐ N  
Trial Ended 8/6/76  
Disposition 8/6/76  
Convicted ☒  
Acquitted ☐  
Dismissed ☐  
Nolled/Discontinued ☐  
On All Charge ☐  
On Lesser Offense(s) ☒  
WOP; WP

Search Warrant	Issued	DATE	INITIAL/No.	INITIAL APPEARANCE	INITIAL/No.	OUTCOME
	Return			PRELIMINARY EXAMINATION OR REMOVAL HEARING		<input type="checkbox"/> Dismissed <input type="checkbox"/> Held for District GJ <input type="checkbox"/> Held to Answer to U. S. District Court
Summons	Issued			Date Scheduled		<input type="checkbox"/> Exonerated <input type="checkbox"/> To Transferee District
	Served			Date Held		
Arrest Warrant				<input type="checkbox"/> Waived <input type="checkbox"/> Not Waived	<input type="checkbox"/> Intervening Indictment	
COMPLAINT				Tape No.	INITIAL/No.	Magistrate's Initials
OFFENSE (In Complaint)						

• Show last names and suffix numbers of other defendants on same indictment/information

DATE 1) HENDRIX, 2) LEWIS, 3) STEWART, 4) WASHINGTON PROCEEDINGS

V. Excludable Delay

DATE		(a)	(b)	(c)	(d)
• /76	Indictment returned and filed at New Haven. Bench Warrant may issued and lodge as detainer. Zampano, J. m-1/6/76				
1/6/76	Bench Warrant issued and handed to U.S. Marshal for service.				
1/12/76	Application for Writ of Habeas Corpus Ad Prosequendum, filed by govt. and allowed. Newman, J. m-1/12/76. two cert. copies handed to U.S. Marshal for service.				
2/9/76	PLEA: Apptmt. of Counsel, Howard C. Eckenrode, Esq. Financial Affidavit, filed by deft. Plea of <u>not guilty</u> entered to Cts 1 thru 4. Newman, J. m-2/9/76				
" "	CJA Form 20 appointing Howard C. Eckenrode, Esq., filed. Newman, J. copies distributed.				
3/4/76	Court Reporter's Sound Recordings of Proceedings (plea) held on Feb. 9, 1976, filed. Gale, R.				
3/22/76	Notice of Readiness, filed by govt.				
5/10/76	Motion for Leave to Join, Adopt or Consolidate Motion of Co-Defendants, filed by deft.			5/10/76E	
5/12	Response to Deft's Motion for Leave to Join, Adopt or Consolidate Motion of Co-Defts, filed by govt.			5/12/76E	

OPPOSITE THE APPLICABLE DOCKET ENTRIES IN SECTION IV SHOW, IN SECTION V, ANY OCCURRENCE OF EXCLUDABLE DELAY (a) (b) (c) (d) "SPEEDY TRIAL ACT"

DATE	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
5/13/76	Deft. William's Motion for Leave to Join, Adopt or Consolidate Motions of Co-defendants, endorsed: Motion granted. copies mailed to Attys Dow and Eckenrode.	3	5/13/76	G	1
5/21/76	Marshal's return showing service, filed: Writ of H. C. ad Prosequendum.				
6/15/	Motion for Relief, filed by deft. pro se.	3	6/15/76	G	
6/22/76	Motion for Relief endorsed: Motion daied as moot, in view of transfer to F.C.I., Danbury. Newman, J. m-6/22/76. copies mailed to deft. and to counsel	3	6/22/76	G	7
7/2/76	Court Reporter's Notes of Proceedings (Plea) held on Feb. 9, 1976, filed. Gale, R.				



DATE 1976	PROCEEDINGS	V. EXCLUDABLE DEL
5/17(contd)	Judge Murphy in the event new counsel appears and is ready for trial. Newman, J. m-5/18/76. Copies mailed to all counsel and defendant.	
5/20	Application for Notice of Alibi endorsed: Motion off w/o prejudice; Rule 12.1 does not require a Court order. Newman, J. m-5/20/76. copies mailed to all counsel of record.	
5/20	On TFM's Jury Assignment List: Ready. Mon. May 24, 1976, Jury Selection. Trial for June 2, 1976. Court defers ruling on oral Motion on Use of Prior Convictions of deft. Court hears counsel in chambers re: ex parte application for subpoena. Murphy, J. m-5/21/76.	
5/21	Marshal's return showing service, filed: 4 subpoena to Testify.	
5/24	On TFM's Jury List: Jury impanelled. Murphy, J. m-5/25/76.	
5/24	JURY TRIAL COMMENCES: Counsel for deft. Washington are not present and local counsel will select jury for them. Govt is not going to trial against the deft. Hendrix. Counsel for depts request a hearing date on Motion to Dismiss the Indictment for Pre-Indictment Delay, denied for reasons stated in open Court. Court Exs. 1 and 2 marked for ID. Court ex. 3 marked for ID and sealed. Motion to increase the nbr. of pre-emptory challenges-denied. Atty. Morse moves to renew motion to withdraw, motion denied may be renewed when counsel files an appearance. Court described the case to the jury. Two jurors excused for cause. Govt allowed six challenges and one for alternate challenge. Defts allowed 10 challenges and one for alternate challenge. Twelve jurors and two alternates sworn and impanelled. Testimony to begin on June 2, 1976. Jurors remain for further selection in other cases. Murphy, J. m-5/25/76.	
6/2	JURY TRIAL CONTINUES: 14 jurors present. Govt. informs Court that Jencks Act material re: Hendrix and Jefferson given to defense counsel. Motion of U. S. Atty. for Dismissal of Indictment re: Hendrix with Order of Court granting dismissal endorsed thereon, filed. Motion of U.S. Atty for Dismissal of Indictment re: Stewart with Order of Court granting dismissal endorsed thereon, filed. Deft. orally renews Motion to Dismiss and Memorandum in Support of Ex parte Application for Subpoena and In Support of Motion to Dismiss, filed by deft. Williams. Court Ex. 3501 and 3502, marked for ID. Atty Byelas moves admission of Kenneth Salaway, Esq. for the purpose of this case--granted. Govt Exs. 1, 2, 3A, 3B, 4A,B,C,&D, 5A thru 5D and 6A thru 6T, marked for ID. Five Govt. witnesses sworn and testified. Govt Exs. 1,2 and 6C made full exhibits, Govt. Ex 7, filed. Govt. Ex. 8 marked for ID. Court Ex. 3503, marked for ID. Govt. Ex. 9A & B, 10A & B, marked for ID. Application for Writ of Habeas Corpus Ad Testificandum filed and Writ issued. Handed to Marshal for service.	over 12

DATE 1976	PROCEEDINGS
6/2	Court Ex. 3504, marked for ID. Govt. Exs. 9B and 10B made full exs. Govt. Ex. 11, marked for ID. Govt. Ex. 6B, C, K, & H, made full exs. Govt. Ex. 11 made full Ex. Deft. Exs. A & B marked for ID. Govt. Exs. 5A thru D, made full exs. Govt makes Offer of Proof and reviews Stipulation to be read to jury. Deft. Washington moves for Directed Verdict, denied. Defts. Williams and Lewis join motion for Judgment of Acquittal-denied. Govt. reads Stipulation to the jury re: exhibits. Govt. Exs. #3A&B, 4A-4D and Govt Ex 12, filed. Govt. rests 3:24 P.M. One deft. witness sworn and testified. Deft. Ex. C, marked for ID. Court adjourned at 3:28 P.M. until 10:00 A.M. of 6/3/76.
6/3	Govt Request for Instructions, filed.
" "	Deft. Lewis' Request to Charge, filed.
6/7	Notice of Readiness, filed by govt ( for retrial )
6/7	Marshal's return showing service: Subpoena to testify (4)
" "	Marshal's return showing service: Habeas Corpus
" "	Marshal's return showing service: Writ of H. C. ad Testificandum
6/7	Marshal's non est return, filed: Subpoena ticket.
6/3	JURY TRIAL CONTINUES: Twelve jurors and two alternates present. Three deft. witnesses sworn and testified. Deft Exs. D & E, filed. Govt. Ex. 13, filed. Deft. Ex. F, marked for ID. Deft. Lewis rests. Two deft. witnesses sworn and testified. Deft. Washington rests at 1:05 P.M. Two deft. witnesses sworn and testified. Deft. Washington moves for mistrial, denied. Affidavit of David Williams in Support of Ex Parte Application for Issuance of Subpoenas and Motion to Dismiss, filed. Supplement to Affidavit of David Williams, filed. Govt. Ex. 15 and 16, marked for ID. Deft. Williams rests at 3:30 P.M. Deft. Lewis's and Govt's Stipulation re: description of Charles Spruill read into record. One govt. rebuttal witness sworn and testified. One witness previously sworn recalled as rebuttal witness. Deft. makes offer of Proof. Deft. Ex. G. marked for ID. 4:25 P.M. Govt. rests in rebuttal. Juror Zemke excused by Court and replaced by alternate. 4:25 P.M. Jury excused until 10:00 A.M. Court adjourned at 4:27 P.M. until 10:00 A.M. of 6/4/76. Murphy, J. m-6/8/76.
6/4	JURY TRIAL CONTINUES: Deft. Washington moves to delay trial until witness arrives-denied for reasons stated in open Court. Deft. Washington moves for mistrial-denied. Deft. Washington moves ot have Govt. produce Mr. Ablerich and report, denied. Deft. Washington rests. Deft. Ex. G. made full Ex. Balance of all govt. Exs. 6A thru 6T made full exs. All parties rest at 10:15 A.M. 10:17 A.M. Alt. #1 replaces excused juror. Summations Govt. 10:18 to 10:42 A.M., Deft. Lewis 10:42 to 10:52A. M. Deft. Williams 10:52 A. M. to 11:20 A. M. Deft. Washington 11:20 A. M. to 11:40 A. M. Govt. rebuttal 11:40 A. M. to 11:55 A. M. Court charges jury 12:23 to 12:55 P.M. Exceptions to charge noted in chambers by Deft. Lewis, no other exceptions. Alt. excused. 12:56 P.M. Jury retires to begin deliberations. Court denies all pending motions. Court files letter dated May 20, 1976, from Court appt. defense counsel. "Application for Issuance of Subpoenas" with Subpoenas attached. Memorandum (re: Application of Court appt. Counsel for Issuance of Subpoenas), filed. Application denied w/o prejudice. All full exhibits and Indictment handed to Marshall and delivered to the jury. Note from jury read to counsel. Defense counsel and client's confer. Court's reply readx to counsel and delivered to jury. Court Ex. 4, marked for ID. Court reads note from the jury. Court's reply read to counsel and delivered to jury. Court Ex. 5, marked. Court reads note from jury that they cannot reach a verdict. Jury



UNITED STATES DISTRICT COURT  
CRIMINAL DOCKET

U. S. vs HENDRIX, et als

76 N-76-5

Yr. Docket No. Det

DATE 1976	PROCEEDINGS (continued) (Document No.)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
6/4	returns to Courtroom for further instructions. Court instructs jury to continue deliberation tomorrow. Court Ex. 6, marked. Jury excused at 5:10 P.M. until June 5, 1976 at 10:00 A.M. Court adjourned until 10:00 A.M. of 6/5/76. Murphy, J. m-6/8/76.				
6/5/76	JURY TRIAL CONTINUES: Jury of 12 begins deliberations at 10:00 A. M. 10:48 Note from jury. Jury reports to Courtroom at 10:50 A.M.-no further instructions. Court reads note from jury at 2:24 P.M. Reply by Court read to counsel and sent to jury. Court Ex. 7, marked. 3:40 P. M. Jury note read to counsel 3:42 P.M. Jury returns to Courtroom. Note from jury re read stating they cannot reach a verdict. 3:43 P.M. Jury excused by Court. Court declares a mistrial. Same bond to continue for deft. Washington. Court Ex. 8 marked for ID. 3:44 Court adjourned. Murphy, J. m-6/8/76.				
6/9/76	Motion for Leave to Obtain Copy of Trial Transcript at Govt. expense, Motion for Evidentiary Hearing on Motion to Dismiss, Motion for PreTrial Conference, filed by deft. Williams				
" "	Motion for PreTrial Conference, and Motion to Dismiss, filed by deft. Lewis	3	6/9/76	G	
6/21/76	Marshal's non est return, filed: Bench Warrant marked "dism."				
6/22/76	Motion for Leave to Obtain Copy of Trial Transcript at Govt. Expense endorsed: Granted, as modified in open Court; Motion for Evidentiary Hearing on Motion to Dismiss endorsed: Denied for reasons stated in open Court. Motion for Pretrial Conference endorsed: Denied w/o prejudice. Newman, J. m-6/22/76. copies mailed to counsel of record.				
" " ;	Motion for Pretrial Conference endorsed: Denied w/o prejudice, Deft. Lewis's Motion to Dismiss endorsed: Denied for reasons stated in open Court. Newman, J. m-6/22/76. copies mailed to counsel.	3	6/22/76	G	13
6/21/76	Hearing held on all motions for retrial: Atty Salaway's motion to Withdraw over to 10:00 A.M. on 6/28/76, in New Haven. Atty. Salaway and deft. not present. Benchwarrant to issue for deft. Washington. Clerk to send a certified letter to Atty. Salaway with instructions that he be present in Court in New Haven, at 10:00 A.M. on June 28, 1976 to present his motion and to show				

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-over-

UNITED STATES DISTRICT COURT  
CRIMINAL DOCKET

DATE 1976	PROCEEDINGS (continued)	V. EXCLUDABLE DEI		
		(a)	(b)	(c)
6/21	(Document No.) cont'd cause why sanctions should not issue for his failure to appear today. Deft. Williams Motion for Certain Transcripts, granted. Court executed CJA 21. Court approves transfer of Deft. to F.C.I. Danbury. Deft. Williams motion to dismiss, denied. Deft. Lewis' Motion for Approval by Court of two out of state subpoenas to issue at Govt. expense, granted. Deft. Lewis's motion to dismiss, denied. Retrial set for Aug. 2, 1976. Newman, J. m-6/23/76.			
6/22/76	Certified letter sent to Atty. Salaway. See docket entry on Sheet for deft. Washington re: Bench Warrant			
6/23/76	Court Reporter's Notes of Proceedings (Motion) held on June 21, 1976, filed. Gale, R.			
6/23/76	Court Reporter's Notes of Proceedings (Plea re: Washington), filed. Gale, R.			
6/30/76	Marshal's return showing service, filed: Subpoena to testify (3).			
7/2/76	Court Reporter's Notes of Proceedings (Plea) held on Feb. 9, 1976, filed. Gale, R.			
6/30/76	CJA Form 21 authorizing Eldridge Waith, Investigator, filed. Newman, J. copies distributed.			
" "	CJA Form 21 authorizing transcript of trial, filed. Newman, J. copies distributed.			
7/7	Marshal's return showing service, filed: Writ of H. C. ad Prosequendum.			
7/7	STEWART: Form B mailed to A.O.			
7/12/76	Court Reporter's Transcript of Proceedings (trial) held on June 2, and 3, filed. Beecher, R.			
7/19	Application for Writ of H. C. ad Testificandum, filed by deft. Lewis and allowed. Zampano, J. m-7/20/76. two cert. copies handed to U.S. Marshal for service.			
7/23/76	Marshal's return showing service, filed: Subpoena to testify (4) Subpoena to Produce (1)			
7/20	Request for Instructions, filed by Govt. (Putting Lives in Jeopardy)			
7/29	Request for Instructions, (Accomplice Testimony), filed by Govt.			
8/2/76	<u>SECOND TRIAL COMMENCES re:: LEWIS, WASHINGTON &amp; WILLIAMS</u> : Notice of Alibi and Questions on Voir Dire, filed by deft. Williams. Decision reserved on Deft. Washingtons Motion for Severance. Atty Eckenrode moves that Deft. Williams be admitted as co-counsel for purposes of cross examination Court will allow cross exam by deft. tentatively for part of cross examination. Atty. Salaway requests that Govt. be instructed to call deft.			



DATE	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
8/2/76	(Document No.) by his name, as well as possible witnesses who may testify. Request denied. Atty. Byelas moves for permission for all defense counsel to interview Aaron Stewart, former deft. Court will give Stewart choice of being interviewed or not. Oath on Voir dire administered. 53 jurors respond to roll call. 12 jurors and 2 alternates sworn and impanelled. One govt. witness sworn and testified. Govt. Exs. 1, 2, 3(a) 3(b), 4(a), 5(a-d) 6(a-t) 7 & 7(a) and 11, filed. Court adjourned at 5:15 P.M. Newman, J. m8/5/76.				
8/3/76	SECOND TRIAL CONTINUES: 10:05 A.M. 14 jurors present. Govt. witness previously sworn resumes stand. Gov. Ex. 14, filed. Oral motion of Deft. Williams for mistrial, denied. 7 Govt. witnesses sworn and testified Oral Motion of Deft. Washington and Lewis for Mistrial, denied. Govt. Exs. 9(b) and 10(b), filed. Govt. Ex12, filed. 3:06 P.M. Govt. rests. Motions for Judgment of Acquittal denied. Deft. Washington Motion to Sever orally renewed, denied. Three Deft. Williams witnesses sworn and testified. Deft. Williams sworn and testified. Govt. Ex. 15, filed. 5:20 P.M. Court adjourned. Newman, J. m-8/5/76.				
8/4	SECOND TRIAL CONTINUES: 10:00 A.M. 14 jurors present. Deft. Williams previously sworn resumes stand. Deft. Exh. H, filed. Oral motion of Deft. Washington to sever, denied. 12:39 P.M. Deft. Williams rests. One Deft. Lewis witness sworn and testified. 12:46 P.M. Deft. Lewis rests. Seven deft. Washington witnesses sworn and testified. Prior appt. of M. Mitchell Morse in this case to represent Aaron L. Stewart cont'd by Court to represent Stewart as witness. Deft. Ex. E, filed. 4:00 P.M. Court adjourned. Newman, J. m-8/6/76.				
8/5	SECOND TRIAL CONTINUES: 10:00 A.M. 14 jurors present. One Deft. witness sworn and testified. Deft. Exs. B & C, filed. Deft. Washington rests 10:33 A.M.. One Govt. rebuttal witness testified. Deft. Ex. I, filed. Govt. rests 11:45 A.M.. Oral motions for Judgment of Acquittal-denied. Govt. opens 11:35 A.M. to 11:57 A.M. Deft. Williams 11:57 A.M to 12:27 R.M. Deft. Washington 12:39 P.M. to 1:00 P.M. Deft. Lewis 12:27 R.M. to 12:38 P.M. Govt. rebuttal 2:03 P.M. to 2:19 P.M. Court charges jury 2:20 P.M. to 3:04 P.M. over				

UNITED STATES DISTRICT COURT  
CRIMINAL DOCKET

DATE 1976	PROCEEDINGS (continued)	V. EXCLUDABLE DELA
	(Document No.)	(a) (b) (c)
8/5	Court rules that Count 4 will not go to the jury. Deft. Williams takes exception to charge. 3:09 P.M. Form and Indictment and Exs. given to jury and deliberations commence. Note from jury 5:05 P.M. Note from Jury 5:15 P.M. Court Exs. A & B, marked. 5:40 P.M. Jury excused until 8/6/76 at 10:00 A.M. to continue deliberations. 5:55 Court adjourned. Newman, J. m-8/9/76.	Verdict
8/6	Motion for Issuance of Subpoenas at govt Expense, filed by deft. Washington. and endorsed: Subpoenas approved. Newman, J. m-8/9/76. Two attested copies handed to U. S. Marshal at Hartford.	
8/6	SECOND TRIAL CONTINUES: 10:00 A.M. 12 jurors report to continue their deliberations. 11:55 A.M. note from jury, Court. Ex. C, marked for ID. 12:20 P.M. Jury returns to Courtroom to have portion of Jefferson testimony read. 2:00 P.M.*Note from Jury. 2:20 P.M. Jury returns to Courtroom and portions of Washington's testimony read. 2:50 P.M. Jury returns verdicts of guilty on Ct. 1, 2 & 3 as to all defts. Jury polled by Court and verdict verified. Motion of Govt. to revoke bond of Deft. Washington-granted. Sentencing set for 9/13/76 at 10:00 A.M. in New Haven. Newman, J. m-8/10/76. * Court Ex. D, marked for ID.	
8/11	CJA Form 20 executed and approved. Newman, J. copies mailed to A.O. for payment. re: Atty. M. Mitchell Morse.	
8/10	Marshal's return showing service, filed: 3 Subpoena tickets and 1 Subpoena to testify.	
8/12	LEWIS: Motion for Judgment of Acquittal and Motion for New Trial, filed by deft.	
8/12	WILLIAMS: Motion for Judgment of Acquittal and Motion for New Trial, filed by deft.	
8/20	Marshal's return showing service, filed: Writ of H. C.	
8/20	Disposition scheduled for Sept. 13, 1976 over to 9/17/76 at 10:00 A.M. Newman, J. m-8/20/76.	
8/23	STEWART: Supplemental CJA Form 20 executed and approved. Newman, J. copies mailed to A.O. for payment.	
8/25/76	CJA Form 21 authorizing transcript of trial, filed Newman, J. copies distributed; Deft. Lewis.	
9/1	CJA Form 21 authorizing payment of \$300.00 to Eldridge Waith, Investigator, filed Newman, J. copies mailed to A.O. for payment.	



DATE	PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
1976	(Document No.)				
9/3	CJA Form 20 authorizing transcript of trial, filed Newman, J. copies distributed re: Deft. Williams.				
9/13	Marshal's return showing service, filed: Writ of H. C. Ad Testificandum.				
9/20	WASHINGTON: CJA Form 21 authorizing transcript of trial, filed. Newman, J. copies distributed.				
9/17	WILLIAMS DISPOSITION: <del>WASHINGTON</del> Impr. 20 yrs. as a general sentence on all three cts. To commence this date, 9/17/76, and to run concurrently with unexpired portions of other federal sentences now being served. Court recommends that the deft. continue to be incarcerated within the Dist. of Conn. until the disposition of anticipated post sentencing motions by deft. Newman, J. m-9/23/76				
" "	LEWIS: DISPOSITION: Impr. 12 years as a general sentence on all three cts. To commence this date, 9/17/76, and to run concurrently with unexpired portions of other federal sentences now being served. Court recommends that the deft. continue to be incarcerated within the Dist. of Conn. until the disposition of anticipated post sentencing motions by deft. Newman, J. m-9/23/76				
8/30	Notice of Appeal, filed by deft. Williams.				
9/17	Notice of Appeal to 2nd Circuit Court of Appeals from a Judgment of Conviction in the District Court of Connecticut, filed by deft. Lewis and endorsed: Leave to appeal in forma pauperis granted. Newman, J. m-9/20/76				
9/20	LEWIS: Notice of Appeal, filed by deft.				
9/21	WILLIAMS: Notice of Appeal, filed by deft.				
9/21	WILLIAMS: Motion for Reduction of Sentence, filed by deft.				
9/22	WILLIAMS; Judgment and Commitment, filed and entered. Newman, J. m-9/22/76. Two Cert. copies handed to U.S. Marshal for service.				
9/17	WASHINGTON: DISPOSITION: Impr. 10 years as a general sentence on all three cts. The Court recommends that the deft. continue to be incarcerated within the district of Connecticut until the disposition of anticipated post trial motions by deft. Deft's Motion for Bail, pending appeal-denied. Newman, J. m-9/23/76.				
9/22	LEWIS: Judgment and Commitment, filed and entered. Newman, J. m-9/22/76. Two cert. copies handed to U.S. Marshal for service.				

UNITED STATES DISTRICT COURT  
CRIMINAL DOCKET

DATE 1976	PROCEEDINGS (continued)	V. EXCLUDABLE DELA
	(Document No.)	(a) (b) (c) (d)
9/22	WASHINGTON: Judgment and Commitment, filed and entered. Newman, J. m-9/22/76. Two cert. copies handed to U.S. Marshal for service.	
9/23	WILLIAMS & LEWIS: Certified copies of docket entries and Notices of Appeal, mailed to Clerk, U.S.C.A.. copies of Notices of Appeal mailed to counsel on 9/22/76.	
9/21	LEWIS: Motion for Reduction of Sentence, filed by deft.	
9/22	WILLIAMS: Motion For Judgment of Acquittal and for New Trial endorsed: Motion denied. Newman, J. m-9/22/76. copies mailed to counsel of record.	
9/22	LEWIS: Motion for Judgment of Acquittal and Motion for New Trial endorsed: Motion denied. Newman, J. m-9/22/76. copies mailed to counsel of record.	
9/24	Order for Return of Bond, filed and entered. Newman, J. m-9/24/76. Check #429 issued and given to Pearl Holderby, surety on bond.	
9/27	Notice of Appeal, filed by deft. WASHINGTON	
9/27	Motion for Reduction of Sentence, filed by deft. Washington.	
9/28	WASHINGTON: Certified copy of Notice of Appeal mailed to Clerk, U.S.C.A.. Copy of notice of Appeal mailed to all counsel of record.	
9/27	Court Reporter's Transcript of Proceedings (DISP) held on 9/17/76, filed. Collard, R.	
10/1	Notice of appeal (2), filed by deft. Washington.	
10/4	WASHINGTON: Notice of Appeal, filed 10/1/76 endorsed: Time to File Notice of Appeal extended until Oct. 1, 1976, F.R.A.P. 4, and leave to appeal in forma pauperis is granted. Newman, J. m-10/4/76.	
10/4.	WASHINGTON: Certified copies of notices of Appeal and docket entries mailed to Clerk, U.S.C.A. together with the Criminal Case Information (FORM A) as to all three defts.	
10/4	Court Reporter's Notes of Proceedings (trial) held on Aug. 2, 3, 4 & 5, 1976, filed. Merchant, R.	
" "	Court Reporter's Notes of Proceedings (DISP) held on 9/17/76, filed. Merchant, R.	
" "	Court Reporter's Notes of Proceedings (trial) held on 8/6/76, filed. Merchant, R.	



UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

UNITED STATES OF AMERICA	:	
	:	
VS.	:	
	:	CRIMINAL NO. N-76-5
ARTHUR T. HENDRIX, DAVID R.	:	
LEWIS, AARON LEROY STEWART,	:	
RICHARD WASHINGTON and	:	
DAVID WILLIAMS	:	

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1 the attorneys'.

2 Thank you.

3 THE COURT: Ladies and gentlemen, now you  
4 have heard all the evidence in the case and you have heard  
5 the arguments of counsel and now it's my task to instruct  
6 you as to the rules of law that govern this case and then  
7 it will be your task to apply those rules of law to the  
8 facts as you find them and in that way reach your verdicts.

9 It's exclusively the function of the Court  
10 to set forth the rules of law, to explain their applica-  
11 tion on these legal matters. You must take the law as I  
12 give it to you.

13 But when it comes to determining the facts  
14 of the case, then you are the sole judges of the facts.  
15 It's your duty to find those facts, weigh the testimony,  
16 draw your own conclusions as to what you believe the  
17 facts are.

18 You may not go outside the evidence. You  
19 may not resort to guesswork, conjecture or suspicions.

20 If, in the course of this charge, I  
21 refer to any facts by way of illustration or to indicate  
22 a contention of one of the parties, and if I should state  
23 the facts differently than you recall them, you rely on  
24 your own recollection and judgment. If your recollection  
25 is different from what the attorneys may have said in



1 argument, you rely on your judgment, because you are the  
2 sole fact-finders in this case.

3 Now, the Government is not to be considered  
4 in any way in a different light than any other party to  
5 a lawsuit and Counsel for the Government is not to be  
6 considered in a different light than Counsel for the  
7 Defendants.

8 The fact the Government is a party in this  
9 particular lawsuit entitles it to no greater or lesser  
10 consideration than that accorded any other party to a  
11 lawsuit.

12 Now in general in doing your task of  
13 fact finding, you can consider two types of evidence. One  
14 is called direct evidence and generally that means the  
15 testimony of an eye-witness. And the other is circumstantial  
16 evidence, and that means facts proved from which a jury  
17 may infer by a process of reasoning other facts sought to  
18 be established as true.

19 Now sometimes different inferences may  
20 be drawn from the same set of facts. Often the  
21 Prosecution will ask you to draw one set of inferences  
22 and the Defendants will ask you to draw different  
23 inferences.

24 It is for you to decide which common sense  
25 inferences you think are reasonable to draw from the

1 facts that you think are established.

2 Circumstantial evidence may be received  
3 and is entitled to such consideration as you think it  
4 deserves, depending on the inference you think necessary  
5 and reasonable to draw.

6 No greater degree of certainty is required  
7 when the evidence is circumstantial than when it's direct  
8 or with either type of evidence there cannot be a  
9 conviction unless you are persuaded beyond a reasonable  
10 doubt of the guilt of the Defendant.

11 Now in this case, as in every criminal  
12 prosecution, each Defendant is presumed to be innocent  
13 unless proven and until proven guilty beyond a reasonable  
14 doubt. That presumption of innocence was with each  
15 Defendant when he was first presented for trial and it  
16 continues with him throughout the trial and as far as you  
17 are concerned, he is innocent and continues innocent  
18 unless and until such time as all the evidence produced  
19 in the trial, considered in light of these instructions  
20 and deliberated upon by you, satisfies you beyond a  
21 reasonable doubt that he is guilty.

22 Now the burden of proving a Defendant guilty  
23 of the crimes with which he is charged rests on the  
24 Government. A Defendant does not have to prove his  
25 innocence.



1 This means that before you may find a  
2 Defendant guilty of any count, the Government must prove  
3 to you beyond a reasonable doubt each and every element  
4 necessary to constitute the crime charged. Whether that  
5 burden of proof resting on the Government has been sus-  
6 tained depends not on the number of witnesses or the  
7 quantity of testimony, but on the nature and the quality  
8 of the testimony.

9 Now, as to that phrase, prove beyond a  
10 reasonable doubt, a doubt founded upon reason, it's a  
11 doubt as will be entertained by a reasonable person  
12 after all the evidence is analyzed; compared and weighed.  
13 A reasonable doubt may arise not only from the evidence  
14 that has been produced, but also from a lack of evidence.

15 Since the burden is on the Government to  
16 prove a Defendant guilty of every element of each crime  
17 charged, a Defendant has the right to rely upon a failure  
18 of the Government to establish such proof.

19 However, absolute or mathematical certainty  
20 is not required, but there must be such certainty as  
21 satisfies your reason and judgment, and such that you  
22 feel conscientiously bound to act upon.

23 A reasonable doubt is not a fanciful or  
24 capricious doubt, for anything relating to human affairs  
25 and depending upon human testimony is open to some possible

1 or imaginary doubt.

2 A reasonable doubt is such doubt as would  
3 cause a prudent person to hesitate before acting in matters  
4 of importance to himself or herself. So if the evidence  
5 warrants, in your judgment, the conclusion that a Defendant  
6 is guilty, so as to exclude every other reasonable con-  
7 clusion, you should declare him to be guilty.

8 On the other hand, if on all the evidence  
9 you have a reasonable doubt to the guilt of the Defendant,  
10 you then must find him not guilty.

11 Now, this case involves criminal charges  
12 brought by the Government against the three Defendants  
13 on trial. The charges are set forth in an indictment  
14 which carries the Number N-76-5, and you will have that  
15 indictment with you in the jury room to see the exact  
16 description of the charges.

17 Now I'll go over them in just a moment.  
18 Let me first explain the function of an indictment.

19 An indictment by a Grand Jury is simply  
20 the formal method of accusing a Defendant of certain  
21 crimes. It defines the crimes charged and defines the  
22 manner of their alleged accomplishment. But the indict-  
23 ment is without any bearing or significance in your  
24 consideration of this case, and it is to be accorded  
25 no weight by you in determining the guilt or innocence



1 of any Defendant. By their pleas of not guilty, each  
2 Defendant has denied each and allegation set forth in  
3 the indictment.

4 Now one other preliminary but very important  
5 matter. You are considering here three separate cases,  
6 one case against each of the three Defendants on trial.  
7 These three cases are tried together before you simply  
8 as a matter of convenience. But in your determination  
9 of the guilt or innocence of each Defendant, you must give  
10 individual consideration to each case against each  
11 Defendant.

12 Your verdict as to any one Defendant must  
13 not influence your verdict with respect to any other  
14 Defendant. These are three separate cases and you should  
15 consider them individually as three separate cases, one  
16 case involving each of these three Defendants.

17 Now each of these three Defendants has  
18 been charged in a three-count indictment which alleges  
19 three separate violations of Federal law, all relating to  
20 the Stamford bank robbery. Let me first summarize those  
21 three crimes before going into them in detail so you'll  
22 understand the overall relationship of one charge to  
23 another.

24 The Defendants are accused in Count One of  
25 unlawfully taking by force and violence or by intimidation

1 money from a bank; in Count Two of taking from a bank  
2 with intent to steal money in excess of a hundred dollars.  
3 This count, that's Count Two, does not include the element  
4 of force or violence or intimidation, but simply taking  
5 money from a bank with intent to steal in excess of a  
6 hundred dollars.

7 Now, Count Three alleges that while taking  
8 the money from a bank, the Defendants put in jeopardy the  
9 life of another person.

10 Now since each count of the indictment  
11 charges each Defendant with a separate crime, you must  
12 consider the essential elements of each count separately  
13 and return a verdict as to each count and as to each  
14 Defendant so you've got three Defendants and three counts.  
15 You will have a verdict form which will indicate the  
16 separate counts with respect to each Defendant.

17 Now these three crimes concerning the Stamford  
18 bank robbery that are charged in this indictment are the  
19 only charges with which you should be concerned. There's  
20 be mention in the testimony of other crimes and I'll have  
21 more to say about that a little later. But I emphasize  
22 now that the three crimes alleged in the indictment are  
23 the only crimes you are asked to render verdicts on.

24 If you think the evidence establishes  
25 beyond a reasonable doubt the guilt of the Defendant on any



1 one of these three crimes, then you should declare him  
2 guilty on that count. But if you are not persuaded beyond  
3 a reasonable doubt that the Defendant is guilty of the  
4 crimes charged in that count, then you must declare him  
5 not guilty on that count.

6 Now before turning to the three counts in  
7 detail, let me just mention that later on in the instruction  
8 I'll refer to a special rule that applies where more than  
9 one person participates in the commission of a crime.

10 This rule concerns the circumstances under  
11 which the action of one person can be attributed to another  
12 person. I'll explain that a little later and I will also  
13 explain later the test to apply in deciding whether a person  
14 may be found guilty as an aider and an abettor.

15 Now let me turn to the three specific  
16 charges. First, with reference to Count One, Federal law  
17 makes it a crime to take by force and violence or by  
18 intimidation from the person or presence of another money  
19 belonging to, in the custody of a bank, the deposits of  
20 which are insured by the Federal Depositors Insurance  
21 Corporation.

22 Count One charges violation of Federal  
23 Statute defining that crime, let me read the count to  
24 you. "On or about September 20, 1973, at Stamford in  
25 the District of Connecticut, Arthur T. Handrix, David R.

1 Lewis, Aaron Lee Stewart, Richard Washington and David  
2 Williams, the Defendants herein, did by force and violence  
3 and by intimidation take from the person and presence of  
4 another money belonging to and in the care, custody and  
5 control and management and possession of the West Side  
6 Office of the Connecticut National Bank, 414 West Main  
7 Street, Stamford, Connecticut; the deposits of which were  
8 then insured by the Federal Depositors Insurance Corporation."

9 Now there are six essential elements of the  
10 count, each one of which the Government has the burden of  
11 proving beyond a reasonable doubt. First, that a Defendant  
12 actually was present at the Connecticut National Bank,  
13 West Side Office on September 20, 1973; second, that a  
14 Defendant at that bank at that date took money from the  
15 person or presence of another; third, that a Defendant  
16 at that bank on that date took such money by force or  
17 violence or by intimidation; fourth, that such money  
18 belonged to or was in the care, custody, control, manage-  
19 ment or possession of that bank on that day; five, that  
20 the deposits of the bank on that day were insured by the  
21 Federal Depositors Insurance Corporation.

22 Sixth, that the Defendants in taking the  
23 money from the person or presence of another by force or  
24 violence or by intimidation willingly and with special  
25 intent -- by force and violence means the use of actual



1 physical pressure or constraint and it means such a display  
2 of physical pressure calculated to inspire fear to the point  
3 of imposing the will of the person exerting the force.  
4 It doesn't necessarily mean actual physical contact, although  
5 that could be involved, but that is not a requirement.

6 Any conduct which is intended to cause fear  
7 or terror is sufficient to constitute force and violence  
8 as used in the statute.

9 And the word intimidation has a somewhat  
10 similar meaning, simply means to put in fear or to inspire  
11 with fear and fear may be inspired without physical violence  
12 or without spoken threats. It may be accomplished by a  
13 menacing attitude or a display of force. Threats by words  
14 or gestures may constitute intimidation if the effect of  
15 such words is to put in fear of physical harm the person  
16 towards whom they are directed.

17 Now this fear need not be so great as to  
18 result in terror, panic or hysteria. Confrontation with  
19 a dangerous weapon as a shotgun will place the person in  
20 sufficient fear to constitute intimidation as used in  
21 this statute. There need be no direct proof of actual  
22 fear, the fear rather may be inferred where there is  
23 just cause for it.

24 It is not necessary that you find the taking  
25 of the money was accomplished by both violence and force

1 and intimidation. The taking of money by either force  
2 and violence or intimidation is sufficient to comply with  
3 the requirements of the statute.

4 Now, money is in the care, custody, control  
5 or possession of the bank if it's part of the cash with  
6 which the bank handles the normal operations such as the  
7 money the tellers use to make change, cash checks or pay  
8 out of for depositors.

9 The term "bank" in this section of the law  
10 means a bank, the deposits of which are insured by the  
11 Federal Depositors Insurance Corporation.

12 And then as the last element, it is that the  
13 act be done willingly and with specific intent. An act  
14 is willingly done if it is done voluntarily and purposely  
15 with a specific intent to do what the law forbids. Mere  
16 laxness, carelessness, even gross negligence is not enough  
17 to show willfulness and specific intent means more than  
18 a general intent to commit an act. The person must  
19 specifically acting knowing he does what the law forbids  
20 and purposely intending to violate the law or recklessly  
21 disregarding the law.

22 So as to that first count, you have those  
23 six elements and as I have indicated, you have to determine  
24 whether each element has been established beyond a  
25 reasonable doubt as to the particular Defendant whose



1 case you are considering at the time. All right?

2 Let me turn now to Count Two. Federal law  
3 makes it a crime to take away with intent to steal money  
4 exceeding a hundred dollars belonging to and in the custody  
5 of a bank, the deposits of which are insured by the  
6 Federal Depositors Insurance Corporation.

7 In Count Two, it charges a violation of that  
8 statute by the same Defendants at the same bank on the  
9 same day. I won't read the terms, but you will have the  
10 indictment to look at. There are five essential elements  
11 of the crime charged in Count Two and each of which the  
12 Government has to prove beyond a reasonable doubt.

13 One is that a Defendant actually was present  
14 at the Connecticut National Bank, East Side Office, on  
15 September 20, 1973; that a Defendant took and carried  
16 away from the bank on that day in excess of a hundred  
17 dollars; that the money belonged to and was in the care,  
18 custody and control, management or possession of the  
19 bank on that day; fourth, that the deposits of the bank  
20 were insured by the Federal Depositors Insurance Corpora-  
21 tion on that day; and five, that the Defendants in taking  
22 and carrying away the money in excess of a hundred dollars  
23 on that day actually did so willingly and with intent  
24 to steal.

25 Now as to Count Three, Federal law makes it

1 a crime while committing an offense charged in Count One  
2 to put in jeopardy the life of any person by the use of  
3 a dangerous weapon. In Count Three, it charges a violation  
4 of that Statute again by the same Defendants at the same  
5 bank on the same date.

6 There are three essential elements of the  
7 crime charged in Count Three, each of which the Government  
8 has to prove beyond a reasonable doubt. The first element  
9 is that the Defendant had committed the offense charged  
10 in Count One of the indictment; the second element is  
11 that in committing the offense charged in Count One, a  
12 Defendant jeopardized the life of a person or persons in  
13 the bank by use of a dangerous weapon; and, three, that  
14 a Defendant in jeopardizing the life of a person in the  
15 bank by use of a dangerous weapon acted willfully with  
16 specific intent.

17 Now, obviously, before you could find a  
18 Defendant guilty on Count Three, you would have to find  
19 him guilty on Count One, that is, of having taken by  
20 force or violence or intimidation from the person of  
21 another money belonging to the bank. So if you find a  
22 Defendant not guilty on Count One, then you don't consider  
23 Count Three at all. But if you find a Defendant guilty  
24 in Count One, then you ought to consider whether or not  
25 the evidence establishes his guilt beyond a reasonable



1 doubt on Count Three.

2 Now let me explain one of the phrases in  
3 connection with that count. To put in jeopardy the life  
4 of a person by the use of a dangerous weapon means to  
5 expose such person to risk of death by the use of a dangerous  
6 weapon. Now risk of death is to be determined objectively,  
7 not subjectively. In other words, with respect to this  
8 element of Count Three, the issue is whether the lives  
9 of persons in the bank were, in fact, in danger, not  
10 merely whether any of them thought their lives were in  
11 danger.

12 This element differs from the element of  
13 intimidation that I mentioned in connection with Count One.  
14 To establish that in Count One all that is needed is to  
15 be shown the person in the bank feared violence. But  
16 to establish for the purposes of Count Three that the  
17 life was in jeopardy, the evidence must show beyond a  
18 reasonable doubt that the life actually was in danger.

19 Now you are entitled, but not required to,  
20 infer from all the evidence that the lives of persons in  
21 the bank actually were in jeopardy. You're entitled to  
22 reach that conclusion if you find that the loaded rifle  
23 or loaded pistol was being pointed at them. In  
24 considering whether the guns alleged to have been used  
25 by the robbers were loaded, you are entitled to consider

1 all the circumstances alleged to have occurred during the  
2 robbery, including what the robbers are alleged to have  
3 said to the people in the bank.

4 Now let me explain the rule I mentioned  
5 earlier that is the situation where a bank robbery is  
6 committed by more than one person. As you will recall,  
7 there was an element in each of the three crimes that I  
8 explained to you that requires a participant in the  
9 robbery to do something in Count One, he had to take  
10 money by force or violence or intimidation. In Count Two,  
11 he had to take money in excess of a hundred dollars. And  
12 in Count Three, he had to jeopardize the life of a person  
13 in the bank by use of a dangerous weapon.

14 Now I instruct you that the Government does  
15 not have to prove that each Defendant individually took  
16 each of these actions. If you find beyond a reasonable  
17 doubt that a Defendant was one of the participants in  
18 the Stamford robbery and if you further find beyond a  
19 reasonable doubt that the robbers were knowingly and  
20 willingly engaging in a joint venture, the object of  
21 which was to rob that bank on that day, then you may  
22 find the actions of any one of them in the bank attributed  
23 to the others and each of them may be found to have done  
24 what any one of them has done.

25 For example, if you find that one of the



1 robbers jeopardized the life of a person in the bank with  
2 a dangerous weapon and you find that the other Defendants  
3 were knowingly and willingly participating with that  
4 robber in the joint venture to rob the bank, then you're  
5 entitled to conclude that the other Defendants jeopardized  
6 the life of the person in the bank with a dangerous weapon,  
7 whether or not the other Defendants were actually pointing  
8 a loaded weapon at that person.

9 Of course, you still have to be satisfied  
10 that all the elements of an offense have been established  
11 before you can return a verdict of guilty on that count.

12 Now let me explain the similar rule con-  
13 cerning aiding and abetting. "Whoever commits an offense  
14 against the United States or aid, abets, counsels, commands,  
15 induces or procures its commission is punishable with  
16 prison. In other words, every person who willingly  
17 participates in the commission of a crime may be found  
18 to be guilty of that offense. And as I will explain,  
19 participation is willingly with intent to do something  
20 the law forbids. That is, with a bad purpose either to  
21 disobey or disregard the law.

22 In order to aid, abet, commit a crime, it's  
23 necessary that the accused willfully associate himself  
24 in some way with the criminal venture and willingly  
25 participate in it as he would in something he wished to  
bring about.

1                   That is, that he willingly seek by some  
2 act of his to make the criminal venture successful.

3                   In this case, the Government contends  
4 that Defendant Richard Washington is guilty of the crimes  
5 charged as an aider and an abettor. They contend that  
6 he was the driver of the getaway car. If you are persuaded  
7 beyond a reasonable doubt that from all the evidence in  
8 the case that Washington was the driver of the getaway  
9 car and that he performed that role knowingly and willingly,  
10 you would be entitled to conclude that he was aiding  
11 and abetting the commission of a robbery.

12                   If you find as to any count that a Defendant  
13 is guilty as an aider or abettor, your verdict is simply  
14 guilty on that count without any separate indication  
15 that the person was an aider or abettor.

16                   During the course of the trial, you have  
17 heard testimony implicating the Defendants in criminal  
18 activities other than the crimes charged in the indict-  
19 ment concerning this Stamford bank robbery. The  
20 Government relies on evidence of Julian Jefferson and  
21 I suppose, to some extent, the evidence of David Williams  
22 on cross-examination to establish that Williams, Lewis  
23 and Washington were participants in the August 31, 1973  
24 robbery of the bank on Long Island and I think it would  
25 refer to also as Jericho, but I'll refer to it as Long



1 Island to distinguish it from the Stamford, Connecticut  
2 bank.

3 Now I caution you ladies and gentlemen to  
4 be extremely careful in the way you use this evidence if  
5 you accept it as true. If you find that one or more of  
6 the Defendants was a participant in the Long Island bank  
7 robbery and if you find that that robbery was carried out  
8 in a way similar to the Stamford robbery and both were  
9 part of a common scheme or that the planning of the  
10 Stamford robbery was an outgrowth of the division of money  
11 from the Long Island robbery, then you are entitled to  
12 consider evidence of a Defendant's participation in the  
13 prior robbery as some evidence of that person's being a  
14 participant in the Stamford robbery.

15 But you cannot use the evidence of other  
16 crimes such as the Long Island robbery simply to conclude  
17 that one or more Defendant is a bad person or that person  
18 is of bad character and for that reason, ought to be  
19 convicted of the crimes with which he's charged in this  
20 case.

21 You are not asked to judge the character  
22 of any Defendant. You are asked to determine whether the  
23 evidence persuades you beyond a reasonable doubt of a  
24 Defendant's guilt of any or all of the three offenses  
25 charged in connection with the Stamford bank robbery.

1 Now let me mention the contentions of  
2 Defendants Williams and Washington, that each of them  
3 was at a specific location other than the bank in  
4 Stamford on the morning of September 20, 1973, when the  
5 robbery occurred. The contention of Defendant Williams  
6 is that he was at home in Hollis, Queens, home about  
7 9:00 A.M -- well, excuse me. The claim of the Defendant  
8 Washington is that he was at home in Hollis, Queens, and  
9 observed there by Yvonne Washington at about 9:00 A.M.

10 The contention of Defendant Williams is  
11 that he left his apartment in Queens around 9:00 A.M.  
12 in the morning of September 20th and that he went to  
13 where Gloria Burnett works to invite her to his mother's  
14 birthday party that night and he went to work.

15 Now, these defenses that the Defendant  
16 was at a place other than where the robbery was committed  
17 is an entirely legal and proper defense. But I want to  
18 make clear that the Defendant does not have to establish  
19 his defense beyond a reasonable doubt. The Government  
20 must prove beyond a reasonable doubt that each Defendant  
21 was at the bank.

22 So if after weighing the evidence the jury  
23 has a reasonable doubt whether the prosecution has proven  
24 that the Defendant whose case you are considering was  
25 present at the time and the place that the alleged crime



1 was committed, then you must acquit that Defendant.

2 Now, obviously, in performing your function  
3 of determining the facts one of the most important things  
4 you have to do is to determine matters of credibility,  
5 that is, the believability of witnesses.

6 And there are certain considerations you  
7 are entitled to have in mind as you do that. You are  
8 entitled to consider the appearance of the witness on  
9 the witness stand, try to size him up, did he appear to  
10 you to be telling the truth? Did he appear to be honest?  
11 Did he appear to be a person who could have made the  
12 observation that he tells you he did and is he capable  
13 of reporting to you accurately?

14 You're entitled to consider whether the  
15 testimony he's given you is plausible, does it ring true?  
16 Or are there inconsistencies in it? How does it fit in  
17 with the other evidence in the case which you do believe  
18 and other facts you find to have existed?

19 You are also entitled to consider whether  
20 any witness has an interest in the outcome of the case  
21 or any bias that may affect his testimony one way or the  
22 other.

23 If you find that any witness has been  
24 deliberately falsifying a material point, you are entitled  
25 to take that fact into consideration in determining whether

1 he's falsified any other points. But simply because a  
2 person has reported one fact inaccurately doesn't mean  
3 he's wrong on others. The person may be honestly  
4 mistaken on one and accurate on the other and a person  
5 may falsify on one and be truthful on another. But if  
6 you find a witness has lied on a material point, it's  
7 only natural that you would be suspicious of his testimony  
8 on other points.

9           You have the right to reject testimony  
10 even though it is uncontradicted if you feel a justifiable  
11 reason for doing so. Now, of course, it doesn't follow  
12 that just because a witness, whether for the Government  
13 or the Defense, has an interest in the outcome of the  
14 case or a bias, that his testimony is to be disbelieved.  
15 There are many people, no matter what their interest in  
16 the outcome of the case, who would not testify falsely.  
17 But a jury is entitled to bear in mind who the witness is,  
18 would the witness have a bias or an interest in the outcome  
19 of the case, has there been any attempt to shade his  
20 testimony in accordance with his bias or some way to  
21 advance his own interest?

22           Whether to the advantage of one or to the  
23 damage of another?

24           In general, in matters of credibility, you  
25 ought to apply the same consideration and use the same



1 sound judgment that you rely on for questions of truth  
2 and veracity that are daily presenting themselves in the  
3 important matters in your own lives.

4 You'll recall there was evidence offered  
5 by the Government of what sometimes is referred to as  
6 an expert witness, the speech pathologist.

7 Generally, under the rules of evidence,  
8 a witness can't give an opinion or conclusion, but there  
9 is an exception for what we call the expert witness, a  
10 witness who might, through education and experience, become  
11 expert in some particular art or science or profession.

12 You're entitled to consider the expert  
13 opinion given by such a person and give it the weight  
14 you think it deserves.

15 If you decide the opinion is not based upon  
16 sufficient education and training or experience, if you  
17 should conclude for the reasons given that the opinions  
18 are not sound or if you conclude the opinion is outweighed  
19 by other evidence, you are entitled to disregard the  
20 opinion entirely. What weight you give it is up to you.

21 Now in this case one of the witnesses you  
22 heard testify was the Defendant Williams, a Defendant  
23 who wished to testify as a competent witness. Defendant  
24 Williams' testimony is to be considered the same as other  
25 witnesses. Now in this case, the testimony of some of

1 the witnesses was sought to be impeached or discredited  
2 by showing the witness had previously been convicted  
3 of a felony, that is, by more than a year in prison.

4 A prior conviction does not render a  
5 witness incompetent to testify, but merely a circumstance  
6 which you are entitled to consider in determining the  
7 credibility of the witness.

8 Now where one of the witnesses was sought  
9 to be impeached by prior convictions, the jury must take  
10 care to consider the prior conviction only as it may  
11 affect credibility and must not consider that evidence  
12 of a prior conviction as evidence that the accused committed  
13 the crime with which he's charged now.

14 Now the law does not compel a Defendant  
15 to take the stand and testify and no presumption of guilt  
16 may be raised and no unfavorable inference of any sort  
17 may be drawn from the fact that Defendant Lewis chose  
18 not to testify. You must not permit such a fact to weigh  
19 in the slightest degree against a Defendant nor should it  
20 enter into your discussions or your own deliberations.

21 A Defendant is not required to establish  
22 his innocence. He need not produce any evidence whatever  
23 if he does not choose to. As I have mentioned before,  
24 it is the burden on the Government to prove a Defendant  
25 guilty beyond a reasonable doubt.



1 Now let me add some further considerations  
2 for you to bear in mind in considering the credibility  
3 of witnesses and I'm referring now to the credibility of  
4 witnesses Arthur Hendrix and Julian Jefferson. Now each  
5 has admitted his participation in bank robberies. By his  
6 own admission, Hendrix is an accomplice of the perpetrators  
7 of the crimes charged in this indictment. This is a crime  
8 in connection with the Stamford bank robbery.

9 Jefferson is an accomplice of the perpetra-  
10 tors of the Long Island bank on or about August 31, '73.

11 I instruct you that the testimony of an  
12 accomplice should also be weighed with caution and great  
13 care. Moreover, each of these two witnesses understands  
14 that he has received certain personal benefits. Hendrix  
15 had the charges concerning the Stamford robbery dismissed.  
16 Jefferson has received favorable letters from the  
17 Prosecutor for the Parole Board.

18 In such circumstances, you should bear in  
19 mind that there is always a risk that an accomplice  
20 may fabricate or embellish a story in a way that he thinks  
21 will be helpful to the Prosecution. He may not do it  
22 deliberately or intentionally. He may even mistakenly  
23 believe that the conviction of one or more of the Defendants  
24 will cause him to lose some of the benefits he expects  
25 to receive. I urge you to keep this in mind when you are

1 considering the credibility of Hendrix or Jefferson. They  
2 reinforce what I told you earlier about weighing the  
3 testimony of an accomplice with caution and great care.  
4 I'm not suggesting that you are not entitled to accept the  
5 testimony of an accomplice, even when he has received or  
6 may hope to receive substantial benefits.

7 Sometimes the testimony of an accomplice  
8 is accurate as to most or all occasions or details and may  
9 be the only evidence available to establish certain facts.  
10 You are entitled to rely on Hendrix's testimony whether or  
11 not it is corroborated. You should bear in mind what I  
12 have said in deciding how much weight to give his testimony  
13 and that of Jefferson and you are free to credit none of  
14 it, some of it or all of it.

15 Now those same cautions apply when you  
16 come to consider the testimony of Defendant Williams  
17 about the participation of Washington and Lewis in the  
18 prior bank robberies, that is, the Long Island robbery.

19 Williams has acknowledge that he was an  
20 accomplice of the perpetrators of that robbery, so his  
21 testimony implicating others in that robbery should be  
22 similarly weighed with caution and great care. I do not  
23 suggest, however, that when you consider Williams'  
24 testimony in his own behalf denying his involvement in  
25 this robbery, the Stamford robbery, that any special rule



1 applies. The testimony of a Defendant in his own behalf  
2 should be assessed according to the same consideration you  
3 allow to any other witness.

4 Now, obviously, this case, like any criminal  
5 case where issues of guilt or guilt and innocence are  
6 involved is not easy to decide. The accusation against  
7 each of these three Defendants as to their participation  
8 in the robbery comes essentially from the witness Arthur  
9 Hendrix. I have told you about the caution to be applied  
10 in considering in accomplice's testimony, and I've discussed  
11 the limited use you are entitled to make of evidence if  
12 you accept it of a Defendant's involvement in the previous  
13 Long Island robbery.

14 You are entitled to use all of the evidence  
15 in the case in deciding whether or not you are persuaded  
16 beyond a reasonable doubt that Hendrix was telling the  
17 truth as to the involvement of each Defendant in the  
18 Stamford robbery, but you cannot convict a Defendant  
19 unless you believe beyond a reasonable doubt that Hendrix  
20 has truthfully described that Defendant's participation  
21 in the Stamford robbery. You cannot convict a Defendant  
22 because you don't like him or because of what has occurred  
23 in his past.

24 The only issues before you are whether the  
25 evidence persuades you beyond a reasonable doubt of the

1 Defendant's guilt of the crimes charged in this indictment.  
2 If you are persuaded beyond a reasonable doubt, you should  
3 return a verdict of guilty as to the count on which the  
4 evidence does persuade you. If the evidence does not  
5 persuade you beyond a reasonable doubt as to those counts,  
6 then you must return a verdict of not guilty.

7 Now when you reach the jury room select one  
8 of your number as the foreman or forelady to preside over  
9 your deliberations, determine the facts on the basis of  
10 the evidence, apply the rules of law as I have explained  
11 them to you and then return to the Court and render your  
12 verdicts fairly, uprightly and without a scintilla of  
13 prejudice.

14 When you reach a verdict as to any one  
15 Defendant on any one count, that verdict must be unanimous.  
16 It is the duty of each juror to discuss and consider the  
17 opinions of each of the other jurors. But in the last  
18 analysis, it's your individual duty to make up your own  
19 minds and to decide this case upon the basis of your own  
20 individual judgment and conscience.

21 Now let me excuse the two alternates who  
22 have sat patiently with us during the trial. I imagine  
23 there is probably something of a frustration being almost  
24 at the end and then to be excused at this point. Obviously  
25 your presence to this point has given us that guarantee



1 that we would have twelve available jurors, so you have  
2 served a useful purpose by your attendance and your  
3 attention. But since we have twelve, I will excuse the  
4 two alternates and thank you for your attendance.

5 As to the jury of twelve, when you retire  
6 to the jury room I'll ask you to go ahead and consider  
7 who your foreman or forelady is, but wait before deliberating  
8 until the Clerk brings in a copy of the indictment, the  
9 verdict form and the exhibits, and at that point, begin  
10 your deliberations.

11 All right. The jury may retire.

12 (Jury retired at 3:05 P.M.)

13 THE COURT: Does the Government have any  
14 requests?

15 MR. PICKERSTEIN: No, your Honor.

16 MR. SALAWAY: No requests.

17 MR. ECKENRODE: Exception to the application  
18 of an accomplice to Williams' testimony recording the  
19 Jericho bank, I think including that prejudices him  
20 as far as the balance of his testimony goes.

21 THE COURT: Well, it seemed to me I have  
22 to do that since there is an accusation as to the other  
23 Defendants, and I added, I believe, enough language to  
24 indicate they are considering his testimony on his own  
25 behalf, to be considered like any other witness so I think

1 that distinction is probably sufficient.

2 MR. BYELAS: On behalf of Defendant Lewis,  
3 there is no objection.

4 THE COURT: Have you had a chance to  
5 examine exhibits and see that they are in order?

6 MR. PICKERSTEIN: We're doing that.

7 THE COURT: Those are retyped?

8 MR. PICKERSTEIN: I believe the Statute  
9 on the front refers to 7/73, beneath the citation 18-371,  
10 I just --

11 THE COURT: I didn't give them any Statutes  
12 at all, so --

13 MR. SALAWAY: No objection.

14 MR. ECKENRODE: Had one which the Judge ruled  
15 on and --

16 MR. BYELAS: No objection to the charge.

17 (Court recessed at 3:08 P.M.)

18 (Court back in session at 5:03 P.M.)

19 THE COURT: Gentlemen, there is a note  
20 from the jury which reads as follows:

21 "Could we see Mr. Williams with a ski  
22 mask on with the face mask section not pulled down over  
23 the face, i.e., similar to the picture used as Government's  
24 Exhibit Number 2, robber on the right?"

25 MR. ECKENRODE: Well, since it's my client,



MICROFILM

## United States District Court

FOR THE

DISTRICT OF CONNECTICUT

FILED

SEP 22 9 44 AM '76

SEP 22 1976

United States of America

NEW HAVEN

v.

DAVID WILLIAMS

DISTRICT COURT  
NEW HAVEN, CONN.

No. N-76-5 Criminal

On this 17th day of September, 1976 came the attorney for the government and the defendant appeared in person and by counsel

It IS ADJUDGED that the defendant upon his plea of "not guilty" and the jury having returned a verdict of guilty has been convicted of the offense of violation of Title 18, Sections 2113(a), (b) (d) and 2(a), of the United States Code (bank robbery)

as charged in Counts One, Two and Three

~~as charged~~

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It IS ADJUDGED that the defendant is guilty as charged and convicted.

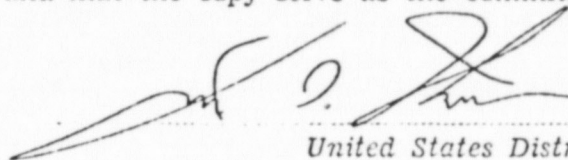
It IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of twenty (20) years, as a general sentence on all three counts. Said sentence is to commence this date, September 17, 1976, and to run concurrently with the unexpired portions of other federal sentences now being served.

XXXXXXXXXXXXXXXXXXXX

SEP 27 1976

9/24/76 CC: Federal Bureau of Investigation  
CC: U. S. Marshal  
CC: U. S. Probation

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.



United States District Judge.

The Court recommends commitment to<sup>6</sup>

Clerk.

<sup>1</sup> Insert "by (name of counsel), counsel" or "without counsel; the court advised the defendant of his rights to counsel and asked him whether he desired to have counsel appointed by the court, and the defendant thereupon stated that he waived the right to the assistance of counsel." <sup>2</sup> Insert (1) "guilty and the court being satisfied there is a factual basis for the plea," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendere," as the case may be. <sup>3</sup> Insert "in count(s) number \_\_\_\_\_" if required. <sup>4</sup> Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law. <sup>5</sup> Enter any order with respect to suspension and probation. <sup>6</sup> For use of Court to recommend a particular institution.



# United States District Court FOR THE

DISTRICT OF CONNECTICUT

FILED

SEP 22 11 37 AM '76

U.S. DISTRICT COURT  
NEW HAVEN, CONN.

MICROFILM

SEP 22 1976

United States of America

NEW HAVEN

v.

DAVID R. LEWIS

No. N-76-5 Criminal

On this 17th day of September, 1976 came the attorney for the government and the defendant appeared in person and by counsel

IT IS ADJUDGED that the defendant upon his plea of "not guilty" and the jury having returned a verdict of guilty has been convicted of the offense of violation of Title 18, Sections 2113(a), (b), (d), and 2(a), of the United States Code (bank robbery)

as charged in Counts One, Two and Three

~~XXXXXXXXXX~~

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

IT IS ADJUDGED that the defendant is guilty as charged and convicted.

IT IS ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of twelve (12) years, as a general sentence on all three counts. Said sentence is to commence this date, September 17, 1976, and to run concurrently with the unexpired portions of other federal sentences now being served.

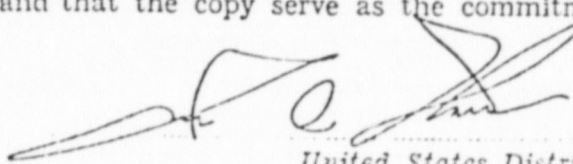
XXXXXX

9/24/76 CC: Federal Bureau of Investigation

CC: U. S. Marshal

CC: U. S. Probation

It Is ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.



United States District Judge.

The Court recommends commitment to "

Clerk.

Insert "by [name of counsel, counsel" or without counsel; the court advised the defendant of his rights to counsel and asked him whether he desired to have counsel appointed by the court, and the defendant thereupon stated that he waived the right to the assistance of counsel." - Insert (1) "guilty and the court being satisfied there is a factual basis for the plea," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendere," as the case may be. - Insert "In count(s) number " If required - Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding unserved sentence; (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law. - Enter any order with respect to suspension and probation. - For use of Court to recommend a particular institution.



**United States District Court**  
FOR THE  
DISTRICT OF CONNECTICUT

SEP 21 11 37 AM '76

U.S. DISTRICT COURT  
NEW HAVEN, CONN.

MICROFILM  
SEP 22 1976  
NEW HAVEN  
United States of America  
v.  
RICHARD WASHINGTON

No. N-76-5 Criminal

On this 17th day of September, 1976 came the attorney for the government and the defendant appeared in person and by counsel

It Is ADJUDGED that the defendant upon his plea of "not guilty" and the jury having returned a verdict of guilty has been convicted of the offense of violation of Title 18, Sections 2113(a), (b), (d) and 2(a), of the United States Code (bank robbery)

as charged in Counts One, Two and Three

~~as charged~~

and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

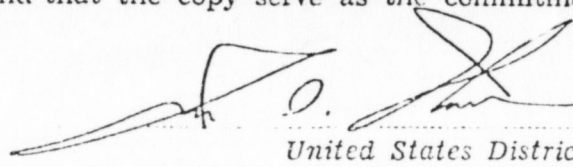
It Is ADJUDGED that the defendant is guilty as charged and convicted.

It Is ADJUDGED that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of ten (10) years, as a general sentence on all three counts.

~~xxxxxxx that~~

9/24/76 CC: Federal Bureau of Investigation  
CC: U. S. Marshal  
CC: U. S. Probation

IT IS ORDERED that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.



United States District Judge.

The Court recommends commitment to "

Clerk.

<sup>1</sup> Insert "by name of counsel, counsel" or without counsel; the court advised the defendant of his rights to counsel and asked him whether he desired to have counsel appointed by the court, and the defendant thereupon stated that he waived the right to the assistance of counsel." - Insert (1) "guilty and the court being satisfied there is a factual basis for the plea," (2) "not guilty, and a verdict of guilty," (3) "not guilty, and a finding of guilty," or (4) "nolo contendere," as the case may be. <sup>2</sup> Insert "in count(s) number" if required. Enter (1) sentence or sentences, specifying counts if any; (2) whether sentences are to run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any other outstanding unserved sentence. (3) whether defendant is to be further imprisoned until payment of the fine or fine and costs, or until he is otherwise discharged as provided by law. Enter any order with respect to suspension and probation. For use of Court to indicate a particular fact.

55



1 MR. DOW: I believe everyone is here.

2 After concluding the redirect of Mr. Hendrix,  
3 the Government intends to call Julian Jefferson  
4 to testify, one, about the conversation at which  
5 he was present with Richard Washington, David Lewis  
6 and David Williams concerning plans to rob a bank  
7 in Stamford, Connecticut, that occurred on August 31,  
8 1973.

9 He will also be asked to testify in the  
10 bank robbery he participated in on that day in  
11 which those three individuals participated and  
12 one aspect of it is that Richard Washington, T.C.,  
13 drove the getaway car in that bank robbery, the  
14 escape car, I believe, and that in fact, he messed  
15 up his assignment, similar to what had occurred in  
16 this case.

17 Perhaps if there's going to be a hassle  
18 perhaps it might be best to ascertain the Court's  
19 ruling at this time rather than doing it and  
20 necessitating the jury's exclusion.

21 THE COURT: All right. You want to offer that  
22 testimony as both planning of this crime and a prior  
23 similar act, I take it, to show as a prior similar  
24 act to show common scheme or plan or also prove  
25 the identity of the Defendants?

1 MR. SALAWAY: I would oppose that on the  
2 grounds that Richard Washington was tried and  
3 found guilty but after the guilty verdict, it  
4 was by a jury. We learned that certain material  
5 which was rightfully 3,500 material had not been  
6 supplied by the Government although it was in the  
7 possession of the United States Attorney, he  
8 stated he did not know he had it. It was very  
9 relevant to have the stolen getaway car which was  
10 later recovered which was commented on at the time  
11 of summation plus other information relating to  
12 Williams' testimony as one of the accomplices  
13 who testified for the Government.

14 Judge Neer, after a lengthy hearing on the  
15 issue, determined that the evidence was  
16 such that a new trial should be ordered and it  
17 was newly discovered evidence. After Judge Neer  
18 ordered the trial set down for new trial, based  
19 upon the fact that it was sufficient to show that  
20 a jury may very well have acquitted if they knew  
21 that particular information, Mr. Epstein, who was  
22 the Assistant United States Attorney in charge  
23 of the case, instead of proceeding with the trial,  
24 dismissed it, nolle proes the matter.

25 I contend, your Honor, if the matter had been



1        tried, there would have been acquittal based on  
2        the additional information which was very  
3        significant, that this particular case Williams  
4        and Julian Jefferson testified as Government  
5        witnesses and were the only two witnesses that  
6        would say Richard Washington committed the crime.

7        During that particular trial, David Lewis was  
8        to be called as a Defense witness and was to  
9        testify that Richard Washington did not commit the  
10       crime. David Lewis was in the bull pen, was being  
11       brought up to testify and before he was taken out  
12       of the bull pen, unfortunately an accident occurred,  
13       his jaw was broken, allegedly by one of the other  
14       individuals who testified for the Government.

15       But there was never any proof of that, so  
16       I'm saying allegedly.

17       Williams -- Lewis went to the hospital, was  
18       in the hospital about a week and a half to have his  
19       jaw wired. He was then called to court to testify  
20       with a wired jaw so the Government's case was  
21       weak, again just an accomplice's testimony, also  
22       one of the perpetrators of the robbery, and the  
23       evidence that the United States Attorney did not  
24       give me related to the getaway car which, as in  
25       this trial, is being testified that Hendrix said

1 the getaway car was taken a distance away, they  
2 all got out and then got into another car and  
3 drove to the place where they distributed the  
4 money and what have you?

5 In the case on August 31st, allegedly they  
6 did the same thing, but there was evidence in  
7 the case indicating that the getaway car was not  
8 left a mile or half a mile from the scene of the  
9 bank robbery.

10 Actually it was between where the money was  
11 distributed and there was a report which was not  
12 given to me which indicated that the FBI found  
13 the vehicle where David Lewis said, found near  
14 where the money was split up and yet the Government  
15 takes the position that Jefferson and Williams were  
16 telling the truth.

17 Now at the time of this submission Mr. Epstein  
18 brought out the fact and, well, said on summation,  
19 "What bank robber would be stupid enough to take  
20 a stolen getaway car ten miles away? Doesn't it  
21 make more sense as Julian Jefferson and Williams  
22 testified, dropped it five blocks from the robbery  
23 and switched into a clean car?"

24 And that way there would be no way of connecting  
25 where the car was found and where they split up the



1 money. He knew that information. The car was  
2 found in the White Castle. That wasn't told to  
3 me.

4 For these two reasons Judge Neer ordered a  
5 new trial and Epstein decided not to prosecute.  
6 I say this, if that case had gone to trial again  
7 the likelihood of Washington winning that was good.  
8 I can't say what the jury would do, but Epstein  
9 decided he didn't want to take the chance.

10 Now, Mr. Dow would like to bring that in  
11 after the case is dismissed. I have no power to  
12 turn down on a dismissal. I can't say I want to  
13 retry it because I want an acquittal. If we go  
14 in it is Mr. Dow 's case and we can't use it,  
15 the Government dismissed, and now attempting to  
16 use that against Richard Washington and I am in  
17 the awkward position, I don't see how they should  
18 be allowed to use it.

19 If he was acquitted they couldn't possibly use  
20 that as a prior act, yet they are trying to use it  
21 when the Government dismissed.

22 I'm taking the position they cannot use the  
23 information because they did nolle pros the case.  
24 What would have happened when the trial came is  
25 the chips would have fallen --

1 THE COURT: I don't know any authority that  
2 the Government's decision to dismiss a charge  
3 precludes the use of those acts in another charge  
4 if they are otherwise dismissed.

5 Do you know of any?

6 MR. SALAWAY: No, I don't, but I do feel it  
7 isn't fair play because the Government could have  
8 prosecuted this case.

9 THE COURT: I know if the Government has reason  
10 to think and the Grand Jury has indicted people for  
11 two charges, I don't see where the Government is  
12 under an obligation to run two trials. If they  
13 are entitled to present both actions in one, they  
14 may decide it's better to have one trial and one  
15 conviction and one instance, that will be enough.  
16 I don't think they are forced to try each episode  
17 in a separate trial.

18 MR. SALAWAY: I feel in this case the reason  
19 the Government did not do so is because they  
20 couldn't win it. They tried it once and that was  
21 it.

22 Now they are going to use the evidence which  
23 probably they would have had an acquittal on.

24 THE COURT: If their evidence of the prior  
25 act is unpersuasive, presumably in this case --



1 MR. SALAWAY: Not so. Again we are not  
2 trying the other case. We don't have the 3,500  
3 material. We don't have the witnesses from the  
4 other case.

5 I would be trying two bank robberies. It  
6 wouldn't be collateral, it would be evidence in  
7 chief as another crime and I would be cross-examining  
8 Jefferson on collateral issues.

9 THE COURT: However, that's another issue.  
10 Actually in one respect this is the more appealing  
11 case for dismissibility because it is unlike some  
12 situations where the prior act confronts you for  
13 the first time in the trial.

14 Here you know a great deal about the allegations  
15 of the prior act and you have a transcript of  
16 exactly what the witness is going to say. There  
17 is no issue of surprise.

18 MR. SALAWAY: I'm not claiming that --

19 THE COURT: So your opportunity is to decide  
20 how to meet that strongest in this case and how  
21 far you need to go to meet that is a matter that  
22 can be dealt with. I hope we don't have to try  
23 the entire case, but I'll certainly give you a  
24 good bit of latitude in seeking to discredit this  
25 information.

1 It seems to me that the evidence is fairly  
2 strong evidence to satisfy the prior similar  
3 acts doctrine. It's not just another bank robbery  
4 which I think is the way it was presented to Judge  
5 Murphy, but once the testimony was introduced by  
6 rebuttal evidence before Judge Murphy, the evidence  
7 shows not just a prior bank robbery, but a remarkably  
8 similar one where the same cast of characters appear,  
9 at least all these Defendants appear.

10 MR. SALAWAY: No, they don't.

11 THE COURT: These Defendants?

12 MR. SALAWAY: Withdrawn, I apologize, yes.  
13 I'm sorry.

14 THE COURT: And their roles are the same,  
15 the same ones go into the bank and the same one  
16 drives the car and his role in driving the car  
17 has a remarkable similarity in that there's  
18 apparently a / <sup>missed</sup> or delayed assignment in  
19 properly executing the role of driving the  
20 car.

21 So as far as being probative of a prior  
22 similar act on the issue of the identity, it's  
23 very probative. Obviously, there's a counter-  
24 vailing consideration as there always is in the  
25 prior similar act case, but the identity here I



1 think is just too strong to be precluded from  
2 jury consideration.

3 This is not a case of offering evidence in bad  
4 character. The similarity here is very probative,  
5 but I'll give you a good bit of latitude in pursuing  
6 this, but satisfying the standards of prior common  
7 acts or similar schemes, the fact that the evidence  
8 ties into the planning of this very crime, at  
9 least that's the testimony that it was the dis-  
10 tribution of the proceedings of that crime, that  
11 there was a discussion of this crime and so those  
12 lengths supply a basis for using the evidence which  
13 is very strong.

14 MR. SALAWAY: I can understand the lengths  
15 of the conversation, but I would oppose going into  
16 the other bank robbery and I don't feel it should  
17 be allowed. I don't think the probative effect,  
18 I think it is prejudicial.

19 MR. BYELAS: Judge Murphy had a better chance  
20 than you do because the way the trial went, the  
21 Government had put on trial starting with bank  
22 witnesses and led up to the key Government  
23 witness, Hendrix, and we had a full blown offer  
24 of proof which was more detailed in the trans-  
25 cript, exactly what was going to be said, and

1 Judge Murphy ruled, he felt it was prejudicial  
2 and threw out anything we had in front of us  
3 since that trial on our motions for dismissal,  
4 et cetera. You have taken the position if Judge  
5 Murphy heard it one time and made a decision,  
6 you weren't going to review that and I think he  
7 was in the better position to make the decision  
8 than you are now.

9 The Government has a right to try the case  
10 where they want to. They have put on Hendrix as  
11 the first witness, whereas Judge Murphy heard a  
12 lot more evidence prior to that decision and he  
13 felt that it was so highly prejudicial he wouldn't  
14 let it in in their case in chief.

15 THE COURT: In the first place, I don't think  
16 I have given any indication, nor would any judge  
17 trying the case, that the evidentiary from a  
18 prior trial is binding in the next trial. I  
19 have indicated the motions were ruled on and the  
20 facts haven't changed that I would tend to follow  
21 those rulings.

22 They may be the law of the case and in any  
23 event it didn't seem appropriate to reconsider.

24 I don't think evidentiary rulings can  
25 possibly be in that category. Furthermore, it



1 seems that I have something that Judge Murphy  
2 didn't have at the time. I have the verbatim  
3 testimony of the witness. I don't think he had  
4 a voir dire and put the witness on the stand to  
5 see what the testimony would be.

6 MR. BYELAS: No.

7 THE COURT: I have the testimony so I know the  
8 extent to which it's going to be detailed and the  
9 extent to which examination and cross-examination  
10 runs the risk of broadening out into other areas  
11 of either prejudice or waste of time, and I've  
12 read that testimony. I read it carefully last  
13 night, and I find it very persuasive in satisfying  
14 the rule of admissibility.

15 To me it's a very strong case based on the  
16 testimony that the witness gave and I am somewhat  
17 impressed, not why I am ruling, the fact is that  
18 once Judge Murphy heard the testimony in the first  
19 case he saw no reason to take any action to avoid  
20 having the jury that was considering Defendant  
21 Washington's case have that testimony.

22 Now, it's true he said to counsel that counsel  
23 had rested and that was the reason he wouldn't  
24 give the severance.

25 But it seems to me he obviously had no alterna-

1           tive than that. If he thought it was prejudicial  
2           he could have granted a mistrial as to Defendant  
3           Washington. Once he knew what the evidence was,  
4           he didn't grant any relief.

5           Now I have the benefit of that exact testimony  
6           which he didn't have at the time he made the  
7           initial ruling.

8           MR. BYELAS: As far as our clients were con-  
9           cerned, we realized once they took the stand it  
10          was going to be admissible, in any event, that  
11          was our election.

12          THE COURT: Frankly, I also think it's really  
13          a little more direct to deal with it now, to say  
14          to your clients that it stays out so long as they  
15          don't take the stand, but they stand the risk once  
16          they take the stand.

17          That may be a proper way to do it, but I  
18          think that raises other problems concerning their  
19          right to testify, so it seems to me if there is  
20          prior planning testimony both decisions ought to  
21          be made at the outset.

22          Either it comes in or it doesn't at all and  
23          I think on balance, having the benefit of knowing  
24          exactly what the testimony is going to be, it is  
25          proper testimony, and I think it ought to be ruled



1 on now so that the Defendants know when it comes  
2 time to make their decision whether to testify  
3 they know exactly what they are going to meet.

4 MR. DOW: Thank you, your Honor.

5 (IN THE PRESENCE OF THE JURY.)

6 THE COURT: Good morning, ladies and gentle-  
7 men. The witness will be in in just a moment.

8 MR. DOW: Previously sworn, your Honor.

9  
10  
11 REDIRECT EXAMINATION OF MR. HENDRIX BY MR. DOW:

12 Q Good morning, Mr. Hendrix.

13 A Good morning.

14 Q Mr. Hendrix, I'm going to ask you to direct your  
15 attention again to the day before the bank robbery which was  
16 the 20th of September -- excuse me, the day before which would  
17 be the 19th of September of 1973. The bank robbery was the  
18 20th of September of 1973.

19 On the day before the bank robbery, how many  
20 meetings did you have?

21 A We had two meetings.

22 Q Now do you remember where the first meeting was?

23 A Francis Lewis and Francis Lewis Boulevard and  
24 in front of the candy store.

25 Q Do you know whether or not Aaron was at that

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF CONNECTICUT

3 - - - - - x  
4 UNITED STATES OF AMERICA, :  
5 Plaintiff, :  
6 vs. : No. N-76-5 CRIM.  
7 ARTHUR T. HENDRIX, DAVID R. :  
8 LEWIS, AARON LEROY STEWART, : MEMORANDUM  
9 RICHARD WASHINGTON and :  
10 DAVID WILLIAMS, :  
11 Defendants. :  
12 - - - - - x

13 MURPHY, D.J.

14 Defendants Lewis, Stewart and Williams by their  
15 appointed counsel have applied for the issuance of subpoenas  
16 pursuant to Rule 17(b) for three U.S. Probation officers of  
17 the Southern and Eastern Districts of New York, a special  
18 agent of the F.B.I. and an Assistant United States Attorney  
19 for the Southern District of New York. The subpoena addressed  
20 to the probation officers requires each officer to bring  
21 with him the presentence investigation report that was made  
22 of the moving defendant in connection with criminal cases  
23 in the Southern and Eastern Districts of New York.

24 The applications, pursuant to the Rule, were made  
25 ex parte at a conference held in chambers, with Mr. Byelas  
26 representing defendant Lewis and Mr. Eckenrode representing  
27 defendant Williams. We were advised that attorney Morse,  
28 who is counsel for Stewart, joined in the applications.

29 The thrust of the applications is as follows:

30 Some time in July, 1974, Mr. Dow, an Assistant  
31 United States Attorney for the District of Connecticut,  
32 presented testimony to a grand jury in this District that



1 resulted in an unreturned indictment accusing these defend-  
2 ants of crimes related to the robbery of the Connecticut  
3 National Bank in Stamford, Connecticut, on September 30,  
4 1973. We were further told that Mr. Dow requested the  
5 grand jury not to file the indictment. The grand jury  
6 having been discharged because its term expired, Mr. Dow  
7 subsequently presented testimony to a different grand jury.  
8 The new grand jury returned an indictment to this Court on  
9 January 5, 1976 accusing the same defendants of the same  
10 crimes.

11 We interviewed Mr. Dow in the presence of Mr.  
12 Eckenrode and Mr. Byelas, and Mr. Dow avowed that it was  
13 true that an indictment was voted at the time alleged and  
14 that, as he understood it, the foreman or the secretary to  
15 the grand jury put the paper in an envelope, sealed it,  
16 and at Mr. Dow's request did not return it to the Court.  
17 He also noted that the present indictment was filed on  
18 January 5, 1976, and that about two weeks ago the Clerk of  
19 this Court sent him, in a sealed envelope, what he believes  
20 is the prior "indictment", which he had not opened.\*

21 After Mr. Dow was excused, Mr. Eckenrode argued  
22 to the effect that defendants have told their counsel that  
23 each was questioned in New York City, both in the Eastern  
24 District and in the Southern District, by probation officers  
25 not only with reference to the crimes which had been committed  
26

---


27  
28  
29 \* The envelope was opened in open court this morning,  
30 May 24, 1976, with all counsel being present. It  
31 contained a three-page document entitled "Indictment,"  
32 signed by the foreman and Assistant United States  
Attorney, and we have compared it with the Indictment  
filed on January 5, 1976 and they are identical.

1 in those Districts (bank robberies) but also with regard to  
2 the crime alleged in the indictment filed in this District  
3 on January 5, 1976. Also that they were questioned by an  
4 Assistant United States Attorney in the Southern District  
5 of New York - after each pleaded guilty to a crime in that  
6 District - concerning the facts of this Connecticut indict-  
7 ment. But no one made any admissions concerning the com-  
8 mission of such crime.

9 We were not told of any prejudice to any of the  
10 defendants as a result of the above related facts, nor any-  
11 thing else that might relate to the due process claim of  
12 these defendants.

13 During the presentation it was admitted that  
14 United States v. Marion, 404 U.S. 307 (1971), precludes any  
15 argument relating to a Sixth Amendment defense.

16 We are satisfied that we have not been furnished  
17 with any factual situation which relates even tangentially  
18 to a claim of due process violation. Accordingly, we deny  
19 the application without prejudice to permit counsel and  
20 their clients to furnish sworn proof in support of their  
21 claims. Since June 2, 1976 has been fixed as the trial  
22 date, we suggest that all counsel act with dispatch.

23  
24  
25  
26   
27 Thomas F. Murphy  
28 Senior United States District Judge

29 Dated: Waterbury, Ct., May 24, 1976.

30 We are not filing this Memorandum in order to preserve  
31 the ex parte status of the application. However, we are  
32 mailing copies to each attorney.



May 20, 1976

Re: U.S. v. Hendrix - No. N-86-5

While discussing an ex parte application for some subpoenas with Mr. Echenrode and Mr. <sup>Bye</sup>Vayles, I interviewed in their presence Mr. Dow concerning allegations of an indictment in this same matter which was allegedly voted on and returned to the Court in July, 1974. Mr. Dow said that it is true that an indictment was voted on at that time but at his request he asked the jury not to file it, and as he understands the facts, the foreman or the secretary to the grand jury put it in an envelope and sealed it and never returned it to the Court, and that grand jury expired by its own limitations three or four months later. Subsequently the present indictment was filed on January 5, 1976, and about two weeks ago the alleged indictment of July, 1974 was sent to Mr. Dow by Miss Consiglio in a sealed wrapper, and he states that even as of now he has not opened it and presumes, or assumes, that it is the July, 1974 paper that he asked the grand jury not to file.

T. F. M.

3.

Cont for sentencing on  
Sept 7 at New Haven

Crim N-76-15 USA vs Jas Chambelli

To go off

Crim N-76-79 USA vs Alphonse Vaccaro

on ~~trial~~ off - Atty Frechette

Crim N-76-5 USA vs Daniel Lewis  
Richard Washington  
Daniel Williams

Crim Wm F Dowd  
Jas Pickenstein

Leslie Byelas  
Howard Edenrode  
Kenneth Salaway



Jury trial commences

Atty. Eckenrode files notice  
of alibi for Def Williams  
+ questions A Voir Dire

Atty. Delaway has already  
filed motion for severance  
which is argued.

Decision Reserved on  
severance motion

Atty. Eckenrode states that  
Def Williams has admitted as

Co-Counsel for purpose of  
cross examination. Court  
will allow cross examination by  
Def tentatively for part of  
cross examination.

Atty. Salaway requests that  
Court be instructed to call  
Def Washington by his name  
+ not "T.C." as well as  
possible witnesses who may testify.  
Request denied.

Atty Byelos moves for permission  
for all Defense Attys to  
interview Aaron Stewart - a  
former defendant in this case

Judge Newman will give  
Stewart the choice of being  
interviewed or not.  
Vorn dire oath administered  
53 Jurors answer roll  
call. List attached.

Excused for cause

Daniel Cohen

John Eastwood

Carl Johnson

Mrs Sarah Kozelski

Henry Ryba

Panel of 40 drawn



After panel of 40 drawn the  
following are excused for  
cause

Mrs Leslie Whitehead  
Mrs Marguerite Trullo  
Mrs Mildred Stedwell  
Miss Jean Myska  
William La Plante  
Mrs Francis Currie  
Mrs Meredith Bloking

As more names are drawn to  
replace the above.

### Challenges

Not

Mrs Lucille Heubner  
Jack Brown  
Safford Pryce  
Chas Vanculgis  
Mrs Patricia Gully  
Mrs Marie August  
Mrs Patricia Diamond  
Edgar Benjamin

### Defendants

George Scott  
Randolph Smith  
William Shepherd  
Richard Sheehan  
Wm A. Crope  
James D. Russo  
Stanley Macorowski

Mrs. Sheoff  
 Mrs. Charlotte Eshe  
 Mrs. Evelyn Botticelli  
 Allen R. Gale  
 Rott Jones  
 Wendell Ames  
 Rott Doolittle  
 Hadden Jones  
 Mrs. Evelyn Gates  
 Last 2 challenges waived

Following panel drawn -

1 M. Abram	7 G. Hollister
2 R. Zera	8 Mrs. J. Carter
3 Mrs. F. Weber	9 Mrs. A. Crossana
4 Geo. Loyders	10 C. Jordan
5 A. Jordan	11 F. Popowski
6 Jos. Roeluck	12 Mrs. W. DePinto

Alt # 1 Mrs. Margaret Rondinone

Alt # 2 Mrs. Rose M. Papandrea

Balance of panel is used until further call.

Arthur Hendrix, Court witness, sworn & testified

Court Exh. 7 - Photo of Bank

" " 3A - Sk. Mask

" " 3B - " "

" " 4A thru 4D Gloves

" " 7A - Photo - Back of Bank

" " 11 - Unemployment & payment record.

" " 5A thru 5D - Photos of Automobile - N.Y. 528-610



(7)

8/2/16

D-76-5  
(Cont)

Gov't Exh. 2 - Photo of inside of bank

" " 1 - " " " "

" " 6(A) thru 6(T) Photo of inside of bank

Court adjourned  
at 5:15 P.M.

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

Aug. 2, 1976

Crim. N 76-5

U.S. A. v Lewis, et al.

ORDER FOR CHALLENGES

(In criminal cases involving a felony)

UNITED STATES

DEFENDANT(S)

1. 30 Heubner
2. 11 Brown
3. 50 Pryce
4. 66- Vaiculis
5. 29- Gulky
6. 5- Angus
- 21- Dumond
8. 8- Benjamin

*[Handwritten signature]*

*[Handwritten initials]*

...

1. #55 Scott
2. #59 Smith, R
3. #57 Shepard
4. #58 Sheehan
5. #15 Crowe
6. ~~#45~~ #50 #53 Russo
7. #40 Maciorowski
8. #56 Sheaff
9. #6 Ashe
10. #10 Botticello
11. #70 Yale
12. #35 Jones
13. #4 Ames
14. #20 Doolittle
15. #32 Ignes
16. #26 Gates
17. — He
18. — He